

# Application for the variation of a Premises Licence: Prince of Wales, 1 Harlington Road, Hillingdon, UB8 3HX

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|--------------------|--|
| Committee          | Licensing Sub-Committee  |
| Officer Contact    | Licensing Officer – Lois King - 01895 277067   |
| Papers with report | <b>Appendix 1</b> - Application to vary a Premises Licence<br><b>Appendix 2</b> - Operating schedule to accompany the application<br><b>Appendix 3</b> - Current premises licence<br><b>Appendix 4</b> - Representations from Interested Parties<br><b>Appendix 5</b> - Photos, plans & maps<br><b>Appendix 6</b> - Dispersal Policy – Prince of Wales<br><b>Appendix 7</b> - Crime and ASB Data – Vicinity of Prince of Wales<br><b>Appendix 8</b> - Statement of Truth in support of application |
| Ward name          | Hillingdon East/ Colham & Cowley   |

## 1.0 SUMMARY

To consider an application to vary the current premises licence for the Prince of Wales, 1 Harlington Road, Uxbridge, UB8 3HX. The application was submitted by NTAD Consultants Limited on behalf of Mr Sheikh Sheraz Ahmed, Director of Game Measure Limited and is attached as **Appendix 1**. An operating schedule to accompany the application form is attached as **Appendix 2**.

The variation application seeks to extend the authorisation for the sale of alcohol on and off the premises between Sunday and Thursday until 00:00 hours and on Fridays and Saturdays until 01:00 hours. The premises licence currently authorises this activity until 23:00 hours between Sunday and Thursday and until 00:00 hours on Fridays and Saturdays.

The variation application seeks to extend the authorisation for recorded music until 00:00 hours between Sunday and Thursday and until 01:00 hours on Friday's and – Saturday's. The premises licence currently authorises this activity until 23:00 hours Sunday – Thursday with music outside only until 22:00 hours on these days and until 00:00 hours on Friday's and Saturday's with music outside only permitted until 23:00 hours on these days.

The variation application seeks to extend the authorisation for live music to include the external area as well as indoors from 10:00 – 23:00 hours seven days a week. The premises licence currently authorises this activity indoors only Sunday to Thursday until 23:00 hours and Friday to Saturday until 00:00 hours.

The variation application seeks to extend the authorisation for the performance of dance until 00:00 hours Sunday – Thursday and until 01:00 hours Friday – Saturday and for the authorisation to include the external area for belly dancing shows until 23:00 hours seven days a week. The premises licence currently authorises this activity indoors only Sunday to Thursday until 23:00 hours and Friday – Saturday until 00:00 hours.

The variation application seeks the authorisation of anything of a similar description to live music, recorded music or performance of dance until 00:00 hours Sunday – Thursday and until 01:00 hours Friday – Saturday (to provide belly dancer show in the external area no later than 23:00 hours on any day of the week).

The variation application seeks to extend the authorisation for late night refreshment until 00:00 hours Sunday – Thursday and 01:00 hours Friday - Saturday. The premises licence currently authorises this activity Friday – Saturday until 00:00 hours.

The opening hours will be Sunday – Thursday from 10:00 hours until 00:30 hours and Friday – Saturday from 10:00 until 01:30 hours. The current opening hours on the licence are Sunday – Thursday 10:00 hours until 23:30 hours and Friday – Saturday from 10:00 hours until 00:30 hours.

The application has attracted two representations from Interested Parties namely two Ward Councillors.

## 2.0 RECOMMENDATION

**That the Licensing Sub Committee consider the application to vary the current premises licence in respect of the Prince of Wales, 1 Harlington Road, Uxbridge, UB8 3HX.**

## 3.0 APPLICATION

An application to vary the premises licence for the Prince of Wales has been submitted by NTAD Consultants Limited on behalf of Mr Sheraz Sheikh Ahmed, Director of Game Measure Limited. The application seeks to extend the hours for licensable activities namely sale of alcohol, provision of regulated entertainment (including live music, recorded music and performance of dance) and late-night refreshment. The premises are situated on Harlington Road, Hillingdon, UB8 3HX.

### 3.1 Description of the premises

The premises is a pub and mediterranean restaurant with a beer garden at the rear which is used for shisha smoking. The premises offers food, music and entertainment e.g. belly dancer to its customers. The premises is situated near to residential dwellings on both the Uxbridge Road and Harlington Road.

### 3.2 Current licensable activities, hours and opening hours

| <u>Activity</u>        |                                     | <u>Hours</u>   |
|------------------------|-------------------------------------|--|
| Sale of alcohol        | Consumption on and off the premises | Sunday – Thursday 10:00 – 23:00<br>Friday – Saturday 10:00 – 00:00 |
| Live music             | Indoors only                        | Sunday – Thursday 10:00 – 23:00<br>Friday – Saturday 10:00 – 00:00 |
| Recorded Music         | Outdoors                            | Sunday – Thursday 10:00 – 22:00<br>Friday – Saturday 10:00 – 23:00 |
| Recorded Music         | Indoors                             | Sunday – Thursday 10:00 – 23:00<br>Friday – Saturday 10:00 – 00:00 |
| Performance of Dance   | Indoors only                        | Sunday – Thursday 10:00 – 23:00<br>Friday – Saturday 10:00 – 00:00 |
| Late Night Refreshment |                                     | Friday – Saturday 23:00 – 00:00                                    |

|           | <u>Opening Hours</u> |
|-----------|----------------------|
|           |                      |
| Monday    | 10:00 – 23:30        |
| Tuesday   | 10:00 – 23:30        |
| Wednesday | 10:00 – 23:30        |
| Thursday  | 10:00 – 23:30        |
| Friday    | 10:00 – 00:30        |

|          |               |
|----------|---------------|
| Saturday | 10:00 – 00:30 |
| Sunday   | 10:00 – 23:30 |

The current premises licence can be found in **Appendix 3**

### 3.3 Proposed hours for licensable activities and opening hours

|                  | Recorded Music (indoors and outdoors) | Performance of Dance (indoors & outdoors)                   | Live music (indoors & outdoors) | Late Night Refreshment (on & off premises) | Sale of Alcohol (on & off premises) |
|------------------|---------------------------------------|---|---------------------------------|--|-------------------------------------|
| <b>Monday</b>    | 10:00 – 00:00                         | Inside:<br>10:00 – 00:00<br>External area:<br>10:00 – 23:00 | 10:00 – 23:00                   | 23:00 – 00:00                              | 10:00 – 00:00                       |
| <b>Tuesday</b>   | 10:00 – 00:00                         | Inside:<br>10:00 – 00:00<br>External area:<br>10:00 – 23:00 | 10:00 – 23:00                   | 23:00 – 00:00                              | 10:00 – 00:00                       |
| <b>Wednesday</b> | 10:00 – 00:00                         | Inside:<br>10:00 – 00:00<br>External area:<br>10:00 – 23:00 | 10:00 – 23:00                   | 23:00 – 00:00                              | 10:00 – 00:00                       |
| <b>Thursday</b>  | 10:00 – 00:00                         | Inside:<br>10:00 – 00:00<br>External area:<br>10:00 – 23:00 | 10:00 – 23:00                   | 23:00 – 00:00                              | 10:00 – 00:00                       |
| <b>Friday</b>    | 10:00 – 01:00                         | Inside:<br>10:00 - 01:00<br>External area:<br>10:00 – 23:00 | 10:00 – 23:00                   | 23:00 – 01:00                              | 10:00 - 01:00                       |
| <b>Saturday</b>  | 10:00 – 01:00                         | Inside:<br>10:00 - 01:00<br>External area:<br>10:00 – 23:00 | 10:00 – 23:00                   | 23:00 - 01:00                              | 10:00 - 01:00                       |
| <b>Sunday</b>    | 10:00 – 00:00                         | Inside:<br>10:00 - 00:00<br>External area:<br>10:00 – 23:00 | 10:00 – 23:00                   | 23:00 - 00:00                              | 10:00 - 00:00                       |

|           | Opening Hours |
|-----------|---------------|
|           |               |
| Monday    | 10:00 – 00:30 |
| Tuesday   | 10:00 – 00:30 |
| Wednesday | 10:00 – 00:30 |
| Thursday  | 10:00 – 00:30 |
| Friday    | 10:00 – 01:30 |
| Saturday  | 10:00 – 01:30 |
| Sunday    | 10:00 – 00:30 |

### 3.4 Other licensed premises nearby

| Premises  | Activities Authorised   | Opening Hours   |
|---|---|---|
| The Red Lion Hotel<br>Royal Lane<br>Hillingdon<br>UB8 3QP   | <p>Provision of recorded music (indoors only)</p> <p>Provision of late-night refreshment (indoors only)</p> <p>Sale by retail of alcohol (on/off supplies)</p>  | <p>Sale of alcohol:</p> <p>From 08.00 hours until 01.00 hours the following day, every day</p> <p>The sale of alcohol to persons residing within the hotel is not time restricted.</p> <p>Provision of late-night refreshment:</p> <p>From 23.30 hours until 01.00 hours the following day, every day</p> <p>The provision of recorded music is not subject to any time restrictions.</p> <p>The sale of alcohol and provision of late-night refreshment on New Year's Eve is as stated in the opening hours of the premises for New Years Eve.</p>   |
| The Vine Inn<br>121 Hillingdon Hill<br>Uxbridge<br>UB10 0JQ | <p>Performance of live music (indoors)</p> <p>Recorded music (indoors)</p> <p>Performance of dance and entertainment of a similar description (indoors)</p> <p>Provision of late-night refreshment (indoors)</p> <p>Sale of alcohol (on/off premises)</p> | <p>Sunday – Wednesday 10:00 - 00:00</p> <p>Thursday – Saturday 10:00 – 01:00</p> <p>An additional hour following those detailed above on:</p> <p>Friday, Saturday, Sunday and Monday of bank holiday weekends</p> <p>The Thursday before Good Friday</p> <p>Christmas Eve</p> <p>On St David's Day</p> <p>St Patrick's Day</p> <p>St George's Day</p> <p>St Andrew's Day</p> <p>and on no more than 12 occasions per year subject to providing the Licensing Service, the Councils Environmental Protection Unit and the Metropolitan Police Service 10 working days' notice, and then only on receiving a subsequent 'CONSENT' from the Councils Licensing</p> |

|   |                           |   |
|---|---------------------------|---|
|   |                           | Service, in respect of this agreement to the specified day and/or times applied for.<br><br>In addition, the sale of alcohol only from 10.00 hours on New Year's Eve to 10.00 hours on New Year's Day |
| Discount Food & Wine<br>10 Crescent Parade<br>Long Lane<br>Hillingdon<br>UB10 0LG       | Sale by retail of alcohol | From 06:00 hours until 24:00 hours, Monday to Saturday<br><br>From 06:00 hours until 23:00 hours on Sundays   |
| Specialist Off Licence<br>81-83 Manor Parade<br>Uxbridge Road<br>Hillingdon<br>UB10 0JQ | Sale by retail of alcohol | Between 08.00 and 23.00 each day  |

A map of nearby licensed premises can be found in **Appendix 5**.

### 3.5 Operating Schedule and Conditions

3.6 The conditions being offered by the applicant can be found in a separate operating schedule attached as **Appendix 2**. Whilst the operating schedule submitted with the application includes a significant number of conditions from the current premises licence (**Appendix 3**) there are some changes e.g. timings for SIA, readmittance timings and the condition in relation to conducting hourly noise patrols during Regulated Entertainment has been omitted.

3.7 On 26<sup>th</sup> March 2025, the Applicant's agent advised by email that there was an error in the wording of two of the conditions in the Operating Schedule that had been submitted with the variation application in February 2025.

Condition 17 was supposed to have read "All patrons entering the premises from 21:00 on Fridays, Saturdays and UK Bank Holidays shall be required to have their identity verified via the ID scanner machine"

Condition 34 was supposed to have read "No patrons shall be permitted to use the external area of the premises after 00:00 hours between Sunday to Thursday and 01:00 hours on a Friday and Saturday"

3.8 The agent was advised that the consultation would have to be restarted in order to allow the Responsible Authorities and other consultees time to consider these changes. The alternative would be to complete the process with the application and operating schedule as submitted on 28<sup>th</sup> February 2025 and then change the conditions by way of a variation at a later date.

## 4.0 **CONSULTATION**

4.1 Closing date for representations  
Friday 28<sup>th</sup> March 2025

4.2 Public Notice published in local newspaper  
Wednesday 12<sup>th</sup> March 2025

## 5.0 REPRESENTATIONS

5.1 We have received representations from Interested Parties

| Councillor/Resident | Ground for Representation  | Appendix   |
|---------------------|--|------------|
| Cllr Gohil          | Prevention of Crime & Disorder<br>Prevention of Public Nuisance<br>Public Safety | Appendix 4 |
| Cllr Chamdal        | Prevention of Public Nuisance  | Appendix 4 |

## 6.0 BACKGROUND INFORMATION

- 6.1 The premises had a licence until December 2021 when the Licensing Sub-Committee revoked it following a review which stemmed from a serious incident – a stabbing where one of the four victims was a 16-year-old girl who had been drinking at the premises. An appeal by the then premises licence holder was unsuccessful and the revocation took effect in February 2022.
- 6.2 A new premises licence application was received from Game Measure Limited in March 2023. The premises planned to offer a similar experience to that which was there prior to the licence being revoked i.e. food (including late night refreshment), drinks (including alcohol), regulated entertainment and shisha.
- 6.2 The application attracted 3 representations from the Responsible Authorities, 3 Representations from Interested Parties and 3 Representations of support.
- 6.3 The application was heard by the Licensing Sub-Committee in April 2023 and a premises licence was granted but with reduced hours from that which were originally applied for and subject to 43 conditions designed to combat the issues that the premises had previously had.
- 6.4 An application to vary the premises licence was received from Game Measure Limited in April 2024. The application sought to extend the hours for licensable activities namely sale of alcohol, provision of regulated entertainment (including live music, recorded music and performance of dance) and late-night refreshment. Whilst the operating schedule submitted with the application included a significant number of conditions from the existing premises licence, there were several omissions, mainly in relation to conditions designed to uphold the Prevention of Public Nuisance licensing objective.
- 6.5 The application attracted representations from three Responsible Authorities namely the Licensing Authority, the Street Scene Enforcement Team/Environmental Protection Team and Metropolitan Police Licensing. There were four representations from Interested Parties namely three Ward Councillors and a local resident. There were also two representations in support of the application from local residents.
- 6.6 The application was scheduled to be heard by the Licensing Sub Committee on 3<sup>rd</sup> June 2024 and was adjourned so that a large bundle of additional information submitted by the applicant's agent on 2<sup>nd</sup> June 2024 could be considered.

- 6.7 The application was subsequently heard by the Licensing Sub Committee on 20<sup>th</sup> June 2024 who decided to reject the part of the application which related to the extension of the hours for the licensable activities but to modify licence conditions 14 and 38 and also to remove conditions 2 and 3 to reflect the deregulation of regulated entertainment.
- 6.8 An Appeal against the decision of the Licensing Sub Committee was subsequently lodged at Uxbridge Magistrates Court thus suspending the decision.
- 6.9 The Appeal is scheduled to be heard on 18<sup>th</sup> July 2025.

## **7.0 OFFICER'S OBSERVATIONS**

- 7.1 This application seeks to extend the hours for the existing licensable activities authorised by the current premises licence.

The premises is situated in an area where there is residential accommodation so the potential for public nuisance is a consideration.

Records show that the premises has submitted two Temporary Event Notices (TEN) since June 2024:

| <b>Date</b>         | <b>Times</b>        | <b>Licensable Activities</b>   | <b>Complaints Received</b>   |
|---------------------|---------------------|--|--|
| 21/12/24 -22/12/24  | 23:00 – 02:00 hours | Sale of Alcohol<br>Regulated Entertainment<br>Late Night Refreshment | None   |
| 31/12/24 – 01/01/25 | 23:00 – 02:00 hours | Sale of Alcohol<br>Regulated Entertainment<br>Late Night Refreshment | Yes – one anonymous complaint on 01/01/25 to the Environmental Protection (Noise) Team |

The Licensing Service is aware of one complaint that has been made about the Prince of Wales since June 2024. A complaint relating to noise from loud music at the venue was logged with the Environmental Protection Team (Noise Team) on 8<sup>th</sup> March 2025. The Environmental Protection Team did not receive a call out to witness the noise when it was on-going. The complaint was updated on Saturday 30<sup>th</sup> March 2025 at 4:30pm with a report of a “constant beat of amplified music coming from the Shish Bar/Prince of Wales” whilst the resident was “in my lounge watching football”. The team did not receive a call out request to visit the premises in the evening. The complainant also emailed the Licensing Team on 30<sup>th</sup> March 2025.

A search of the Members Enquiries database for enquiries logged by Members relating to either “Prince of Wales” or “Sahara City” or “1 Harlington Road” from June 2024 to the present day has not revealed any such enquiries having been registered.

- 7.2 The representations received from interested parties raised the following issues:

### **a) The Prevention of Crime and Disorder**

Cllr Gohil notes the history of the premises under the previous premises licence holder and although the change in management is acknowledged, residents and local stakeholders have raised concerns regarding late night disorder associated with the venue and especially in the surrounding streets. Local residents widely believe that the venue is not complying with key conditions on the premises licence, specifically using the ID scanner from 20:00 hours on Fridays and Saturdays. Doubts still

remain about the ability of the premises to abide by the conditions on their licence and over whether there has been a significant enough change in the culture at the premises such that residents can be confident that an increase in licensable hours will not result in an increase in crime and disorder.

Metropolitan Police Licensing have not submitted a Representation in relation to this application.

#### **b) The Prevention of Public Nuisance**

Cllr Gohil notes the history of the premises in terms of noise nuisance, including loud music, patrons shouting in the street and general disturbance late at night – issues which continue to exist. In addition, public littering and patrons loitering after exiting the venue late at night affect the quality of life of nearby residents.

Noise is especially an issue after 23:00 hours when the streets are quieter and the impact in the use of the outdoor garden area and the playing of recorded music is more keenly felt. Although the applicant has proposed limiting the use of the garden after 23:00 hours, Cllr Gohil is not confident that this will be complied with given the history of previous promises not being upheld.

Cllr Chamdal is concerned that the proposed closing times will create a public nuisance for residents living in properties in close proximity to the venue. He is also concerned that the late hours will result in an increase in large groups of people being attracted to the premises thus significantly increasing nuisance, especially when exiting the venue. Noise generated by regulated entertainment in external areas is also a concern. Cllr Chamdal does not feel that the conditions will negate the issues that will be caused by increasing the licensable hours.

The Environmental Protection Team have not submitted a Representation in relation to this application.

#### **c) Public Safety**

Cllr Gohil has highlighted the history of the premises in terms of fights, drunkenness, anti-social behaviour and the need for Police intervention at the venue. She acknowledges the inclusion of conditions such as CCTV and staff training in the operating schedule but has expressed doubts over the ability of the premises to self-regulate and whether they can be trusted to do so. Cllr Gohil is also concerned about the potential for the premises to exceed their capacity with later hours.

Cllr Chamdal has raised concerns over parking issues in the surrounding area.

### **8.0 Relevant sections of s.182 Guidance**

#### **Where representations are made**

- 8.1 **At paragraph 9.3** it states that “Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 to 9.10), the licensing authority’s discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10). Relevant representations can be made in opposition to or in support of, an application and can be made by any individual, body or business that has grounds to do so.

#### **Relevant, vexatious and frivolous representations**

- 8.2 **At paragraph 9.4** it states that “A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a



businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.”

- 8.3 **At paragraph 9.9** it states that “It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making the representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.”

#### **Determining actions that are appropriate for the promotion of the licensing objectives**

- 8.4 **At paragraph 9.42** it states that "Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be".
- 8.5 **At paragraph 9.43** it states that "The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve".
- 8.6 **At paragraph 9.44** it states that "Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination".

#### **Proportionality**

- 8.7 **At paragraph 10.2** it states, “Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months’ imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.”
- 8.8 **At paragraph 10.8** it states, “The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations, and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.”

- 8.9 **At paragraph 10.9** It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.
- 8.10 **At paragraph 10.10** it states that "The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late-night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives".

### **Hours of trading**

- 8.11 **At paragraph 10.13** it states "The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application".
- 8.12 **At paragraph 10.14** it states "Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested."

### **Licensing hours**

- 8.13 **At paragraph 14.51** it states "With regard to licensing hours, the Government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application".
- 8.11 **At paragraph 14.52** it states "Statements of licensing policy should set out the licensing authority's approach regarding licensed opening hours and the strategy it considers appropriate for the promotion of the licensing objectives in its area. The statement of licensing policy should emphasise the consideration which will be given to the individual merits of an application. The Government recognises that licensed premises make an important contribution to our local communities and has given councils a range of tools to effectively manage the different pressures that licensed premises can bring. In determining appropriate strategies around licensed opening hours, licensing authorities cannot seek to restrict the activities of licensed premises where it is not appropriate for the promotion of the licensing objectives to do so".

## **9.0 Relevant sections of Hillingdon's Licensing Policy**

## **Licensing Objectives – The Prevention of Crime and Disorder**

- 9.1 **At paragraph 10.1** Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment, can be a source of crime and disorder. The Licensing Authority will expect operating schedules to satisfactorily address these issues from the design of the premises through to the daily operation of the business. Applicants are recommended to seek advice from the Police Licensing Officer and Licensing Authority Officers prior to making any application as early advice can alleviate representations being made once an application is submitted. Full contact details for both are contained within the Responsible Authorities contact in appendix B.
- 9.2 **At paragraph 10.3** Where a number of premises may be in close proximity it may be difficult to attribute the disorder to patrons of particular premises, however there is a duty on Premises Licence Holders or Club Management Committees to act responsibly to ensure their own customers do not contribute to crime and disorder whilst in their premises and in the vicinity of their premises.
- 9.3 **At paragraph 10.6** Applications referred to the Licensing Sub-Committee where relevant representations have been received will be determined on the individual merit of each case. The Licensing Sub-Committee has the power to impose specific conditions when considered appropriate in respect of the Crime and Disorder objective.

## **Licensing Objectives – Public Safety**

- 9.4 **At paragraph 11.5** Applications referred to the Licensing Sub-Committee will be determined on the individual merit of each case. The Licensing Sub-Committee have the power to impose specific conditions when considered necessary in respect of the Public Safety objective.

## **Licensing Objectives – The Prevention of Public Nuisance**

- 9.5 **At paragraph 12.1** Licensing Sub Committees will be mindful that licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises. When addressing public nuisance, the applicant should identify any particular issues that are likely to affect adversely the promotion of the licensing objective to prevent public nuisance. They should then include in the operating schedule how they will deal with those matters. The concerns mainly relate to noise nuisance from within the premises or from the use of any outside areas, light pollution, smoke and noxious smells. This may also include patrons outside a premises and the dispersal of customers. Due regard will be given to the impact these may have, and the Licensing Authority will expect operating schedules to satisfactorily address these issues.
- 9.6 **At paragraph 12.7** Applications referred to the Licensing Sub-Committee will be determined on the individual merit of each case. The Licensing Sub-Committee have the power to impose specific conditions when considered necessary in respect of the Prevention of Public Nuisance objective.

## **Representations**

- 9.7 **At paragraph 17.2** Representations can be made to the Council, as Licensing Authority, by a 'Responsible Authority' or by 'Interested Parties' which include individuals such as residents or bodies such as a resident's association, trade associations and other businesses operating. Representations can be made concerning:
- Applications for new premises licences or club premises certificates
  - Applications to vary premises licences or club premises certificates
  - Personal licence applications on criminal grounds (only by the Police)
- 9.8 **At paragraph 17.9** The Licensing Act 2003 also permits Elected Members to make representations on their own behalf as well as on behalf of their constituents. Members of the public who are making

representations may also request that their Ward Councillor speaks on their behalf at public hearings to determine applications.

- 9.9 **At paragraph 17.11** Written representations include letters and emails. Representations received after the end of the public consultation period cannot legally be accepted and will not be considered by the Licensing Authority.
- 9.10 **At paragraph 17.15** All valid representations will form part of a committee report that will become a public document. It will be given to the applicant, their agent, responsible authorities, other persons making representations and any other party requesting a copy as well as the Licensing Sub-committee 10 working days prior to the hearing. Anonymous representations will not be accepted.

### **Licensing Hours**

- 9.11 **At Paragraph 25.1** it states that "Prior to the introduction of the Licensing Act 2003, it was believed that fixed and artificially early closing times (established under the Licensing Act 1964) were one of the key causes of rapid binge drinking prior to closing times and one of the causes of disorder and disturbance when large number of customers were required to leave the premises simultaneously".
- 9.12 **At Paragraph 25.2** it states that "The aim through promotion of the licensing objectives should be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through flexible opening times".
- 9.13 **At Paragraph 25.3** it states that "Arbitrary restrictions that would undermine the principle of flexibility will therefore be avoided. The four licensing objectives will be paramount at all times and the Council will always consider the individual merits of each case".
- 9.14 **At Paragraph 25.4** it states that "In accordance with guidance there is no fixed restriction on terminal hours for any particular areas of the borough. Such a restriction could cause the migration of patrons from one area to another and create the circumstances that the legislation is attempting to avoid. Each application will be dealt with on its merits. It is for the applicants to detail in their Operating Schedule exactly what times they intend to open and close the premises and what measures they will take to ensure that they do not cause nuisance or disturbance to their neighbours in the vicinity. The later the terminal hour applied for, the greater will be the need to address the issues of disturbance and nuisance".

### **Licence Conditions**

- 9.15 **At Paragraph 20.1** it states that "Conditions on premises licences and club certificates are determined by:
- a) The measures put forward on the Operating Schedule
  - b) Mandatory conditions within the Act
  - c) Measures decided at a hearing by the Licensing Sub Committee"
- 9.16 **At Paragraph 20.2** it states that "Conditions attached to licences by the Licensing Authority that have been proposed by the applicant in their operating schedule should be consistent with the steps set out in the operating schedule. This means that the effect of these conditions should be substantially the same as that intended by the terms of the operating schedule".
- 9.17 **At Paragraph 20.3** it states that "Any conditions attached to licences following relevant representations will focus on matters within the control of the Premises Licence Holder or Club Management Committees. They will address matters which have a direct impact on those living, working or engaged in normal activities in the vicinity, as well as patrons of the licensed premises. They will not be used as a means of attempting to attach responsibility to Premises Licence Holders or Club Management Committees for matters outside their reasonable control, such as anti-social behaviour once away from the premises or licensable activity".

9.18 **At Paragraph 20.4** it states that "The Licensing Authority will not impose standard conditions upon every licence issued, however it may have regard to model conditions produced by the Government and/or the Institute of Licensing and it may choose to impose these in appropriate circumstances".

## 10.0 LEGAL CONSIDERATIONS

10.1 When considering licence variation applications, the Sub-Committee is required carry out its functions with a view to promoting the licensing objectives. The licensing objectives are:

- Prevention of crime and disorder
- Public Safety
- Prevention of public nuisance
- Protection of children from harm

10.2 An application for variation of a premises licence may be made pursuant to s.34 of the Licensing Act 2003 and is essentially governed by Licensing Act 2003, reg.12 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005/42), Licensing Act 2003 (Hearings) Regulations 2005/44) and s.182 Secretary Code of Guidance.

10.3 The Sub-Committee must ensure that all licensing decisions have:

- A direct relationship to the promotion to the promotion of one or more of the four licensing objectives;
- regard to the Council's statement of licensing policy;
- regard to the Secretary of State guidance; and
- not be made as a result of a blanket policy which is applied so rigidly that an exercise of discretion in each individual case is precluded

10.4 Applications must be considered with regard to the principles of fair process and the Human Rights Act 1998 and must have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 149 provides that a Public Authority must, in the exercise of its functions have due regard to the need to:

- i. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- ii. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- iii. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

10.5 Section 149(7) of the Equality Act 2010 defines nine relevant protected characteristics examples are; race, sex, age, disability and religious beliefs

10.6 When considering an application for the variation of an existing Premises Licence, only the variation is subject to determination. An application to vary the premises licence concerns variation of the conditions attaching to the licence or of the authorised licensable activities.

10.7 The application to vary must be accompanied by the Premises Licence (unless that is impracticable when a statement explaining why must be provided).

10.8 The authority must make the variation as applied for, subject to the mandatory conditions, unless relevant representations are made, in which case a hearing must be held.

10.9 Where relevant representations are made, the Licensing Authority must hold a hearing to consider them, unless it is agreed that a hearing is unnecessary ([s.35\(3\)\(a\)](#)).

- 10.10 The Licensing Authority must then take such of the following steps as it believes to be appropriate for the promotion of the licensing objectives:
- a) modify the conditions of the licence or
  - b) reject the whole or part of the application ([s.35\(3\)\(b\) and \(4\)](#)).
- 10.11 When determining applications to vary an existing Premises Licence, the Sub-Committee must consider all relevant representations that are made before taking such steps (if any) as it considers necessary for the promotion of the licensing objectives. The steps that may be taken are as follows:
- grant the variation as applied for;
  - modify the conditions of the licence (conditions are deemed to be modified if they are altered/omitted or new conditions are added); or
  - reject whole or part of the application to vary the licence.
- 10.12 Any modification of conditions should be confined to those considered appropriate in respect of the particular variation sought.
- 10.13 The Sub-Committee must also have regard to the London Borough of Hillingdon's Statement of Licensing and the Secretary of State's Guidance issued under the Licensing Act 2003 when deciding what action, if any, to instigate. The terms of the Statement of Licensing Policy and Guidance are highly persuasive however, are not binding on the Licensing Sub-Committee.
- 10.14 Officers have provided the Sub-Committee with recommendations related to this application. Subject to the above-mentioned factors having been properly considered, the Sub-Committee may depart from the recommendations if there are good reasons for doing so. The Sub-Committee is advised that such departures could give rise to an appeal or judicial review.
- 10.15 In order for representations to be 'relevant' they must have been made by an interested party or a responsible authority (see the definitions in [section 13](#) Licensing Act 2003) and they must relate to the likely effect on the promotion of the licensing objectives if the application were to be granted.
- 10.16 If the representations are made by an interested party there is a further requirement that the licensing authority does not consider them to be frivolous or vexatious. If it thinks they are, it must explain its decision to the person who made the representations.
- 10.17 The need for a hearing can be dispensed with by agreement of the authority, the applicant for the variation and all of the parties who have made relevant representations.
- 10.18 The authority must notify its decision to the applicant, the interested party and any person who has made relevant representations and, must give reasons for its decision.
- 10.19 A variation of a premises licence may impose different conditions on different parts of the premises or impose different conditions in relation to different licensable activities.
- 10.20 Conditions should also be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. Conditions will not be necessary if they duplicate a current statutory requirement. Licensing Authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.