



HILLINGDON
LONDON

VIRTUAL Licensing Committee

Date: WEDNESDAY, 7 APRIL
2021

Time: 10.00 AM

Venue: VIRTUAL - LIVE ON THE
COUNCIL'S YOUTUBE
CHANNEL: HILLINGDON
LONDON

To all Members of the Committee:

Simon Arnold (Chairman)
Alan Chapman (Vice-Chairman)
Lynne Allen (Opposition Lead)
Nick Denys
Janet Gardner
Raymond Graham
John Hensley
Carol Melvin
John Oswell
Colleen Sullivan

You can view the agenda
at www.hillingdon.gov.uk or use a smart
phone camera and scan the code below:



Published:

Friday 26 March 2021

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Putting our residents first

Lloyd White
Head of Democratic Services
London Borough of Hillingdon,
Phase II, Civic Centre, High Street, Uxbridge, UB8 1UW

Agenda

- 1 Apologies for Absence
- 2 Declarations of Interest in matters coming before this meeting
- 3 To agree the minutes of the meeting held on 14 October 2020 1 - 6
- 4 To agree the minutes of the meeting held on 14 January 2021 7 - 8
- 5 To confirm that the items of business marked Part 1 will be considered in public and any items of business marked Part 2 in private

Part 1 - Members, Press and Public

- 6 Review of Licensing Sub-Committee Hearing Protocols & Application Procedure 9 - 38
- 7 Legislative & COVID Regulations Update 39 - 42

Part 2 - Members' Only - Not for Publication

8 COVID Enforcement Update

Officer will give a presentation to Members on recent and current enforcement activities in relation to licensed premises and COVID-19.

9 Ratification of past Sub-Committee minutes

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*That these items be declared as exempt from publication as they both involve the disclosure of information in accordance with Section 100(A) and **paragraphs 1,2 & 7** of Part 1 of Schedule 12 (A) to the Local Government Act 1972 (as amended), in that they contain **information relating to any individual, information likely to reveal the identity of an individual and information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime** and that the public interest in withholding the information outweighs the public interest in disclosing it.*

Minutes

Licensing Committee
Wednesday, 10am, 14 October 2020
Meeting held virtually live on the Council's
YouTube channel: Hillingdon London



Members Present:

Martin Goddard (Chairman)
Nick Denys (Vice-Chairman)
Lynne Allen (Opposition Lead)
Simon Arnold
Janet Gardner
Eddie Lavery
Carol Melvin
John Oswell
Colleen Sullivan
Alan Chapman

Officers Present:

Glen Egan
Daniel Ferrer
Stephanie Waterford
Kiran Seyan
Mark Braddock

3. APOLOGIES FOR ABSENCE

No apologies for absence had been received.

4. DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING

No interests were declared by Members present.

5. TO AGREE THE MINUTES OF THE MEETING HELD ON 14 JANUARY 2020

The minutes of the meeting held on 14 January 2020 were agreed as a correct record.

6. TO AGREE THE MINUTES OF THE MEETING HELD ON 14 MAY 2020

The minutes of the meeting held on 14 May 2020 were agreed as a correct record.

7. TO CONFIRM THAT THE ITEMS OF BUSINESS MARKED PART 1 WILL BE CONSIDERED IN PUBLIC AND ANY ITEMS OF BUSINESS MARKED PART 2 IN PRIVATE

It was confirmed items marked public and items marked private would be considered as set out on the agenda.

8. PRESENTATION BY TRADING STANDARDS - AN ACCOUNT OF A VISIT TO A LICENSED PREMISES

Kiran Seyan, Senior Trading Standards Officer gave a presentation on how Trading Standards undertake their visits and inspections to off-licences where potential breaches are investigated. It was noted that the service was intelligence led, receiving complaints from residents, council services, councillors, the police and other agencies regarding allegations primarily of under-age sales, counterfeit and non-duty goods.

Ms Seyan explained how visits were often multi-agency to ensure a holistic approach to the investigation, including the Police and Dog Unit, HMRC, the Licensing Team and brand representatives. It was outlined how the seizure of goods took place, the types of notices given and the detailed procedures followed to ensure all aspects of compliance was investigated during a visit.

The presentation showed Members examples of some of the illicit goods that had been seized during investigations and where they had been hidden by those operating local off-licences. It was noted that the main issues with alcohol were non-duty paid and for tobacco counterfeit, non-duty paid and also non-standardised packaging. It was explained that other goods are discovered on visits such as nitrous oxide cannisters, unlicensed medical products and even fake stamps.

In respect of the outcomes of such investigations, it was noted that Trading Standards seek to bring cases to prosecution but also to the Licensing Authority in respect of reviewing their license going forward.

Members thanked Ms Seyan for her presentation and commented on the following matters:

- Access to premises and the need for a warrant to access connected properties, e.g. flats above.
- Recent difficulties in receiving results of analysis of products from brand representatives due to the pandemic, with some requiring analysis abroad.

Due to brief technical difficulties with the Chairman's connection, Cllr Nick Denys, Vice-Chairman of the Committee temporarily led the conclusion of the item and thanked officers for their efforts in tackling such premises.

9. STATEMENT OF LICENSING POLICY - CONSULTATION

Mr Ferrer, Licensing Team Manager, introduced the report on the proposed update to the Statement of Licensing Policy which was out to consultation. It was noted that the Council was required to review its licensing policies at regular intervals to ensure that it was carrying out licensing functions in accordance with current legislation. During this review, it was explained that consideration had been given to how

changes might improve the way in which services are being delivered, to make them more efficient and customer friendly.

Mr Ferrer detailed the various proposed updates to the Policy line by line. The Chairman, who had re-joined, led a discussion with Members of the Committee who sought clarification and gave comment on the following matters for officers to consider and, where possible, include in the final draft Policy to be presented to Cabinet and then Council:

- The inclusion of all residents' associations in the consultation
- Shisha bars and their enforcement
- To include referencing and hyperlinking within the Policy to relevant documentation or websites
- More information about the Purple Flag Scheme and related guidance.

RESOLVED:

That the Committee considers the revisions to the Statement of Licensing Policy and offers comments to be considered by Cabinet at the end of the consultation period.

10. REVIEW OF LICENSING SUB-COMMITTEE HEARING PROTOCOLS

Ms Waterford, Service Manager Licensing, Food & Safety Regulation, introduced the report proposing a review of the hearing protocols for Licensing Sub-Committee meetings to ensure best practice and consistency in conducting all types of hearings. It was noted that the Hearing Protocols were last updated and adopted in 2015 and serve as the standard by which the Licensing Authority must determine applications across all delegated licensing regimes.

The Chairman and Members of the Committee offered the following points in respect of updating the hearing protocols and related matters in terms of the information presented to the Sub-Committees:

- Potential usefulness and legal consideration on site visits to premises prior to a hearing and protocols to ensure licensing and sometimes related planning considerations to not overlap or influence the other.
- The absence of the Police as a Responsible Authority from hearings even in circumstances where an Interested Party has issued a statement citing police information such as CAD numbers.
- Consideration of more detail in reports such as clarification of submissions made by the Applicant in the application form, Companies House searches and improved follow-up on information provided by Interested Parties.
- The appropriateness and relevance of video and photographic evidence submitted by Interested Parties.
- Consideration of time limits on speakers and best practice elsewhere to enable efficient meetings yet for all parties to have their due say.
- Ensuring awareness of the "High Risk Premises".
- The distinction and relevance between incidents and activities outside on public land in comparison to those within the confines of a licensed premise.

- Support for a “licensing policy advisor” to attending hearings to guide Members on the application of the Policy.

RESOLVED: That the Committee discusses the headings for review and instructs Officers to prepare draft Hearing Protocols ready for final review and adoption at the next Licensing Committee meeting in January 2021.

11. HOSPITALITY SECTOR CORONAVIRUS REGULATIONS 2020

Ms Waterford, Service Manager Licensing, Food & Safety Regulation, detailed the activity and recent actions taken by the Council in respect of ensuring compliance by the hospitality sector with the Coronavirus regulations.

Members were given an overview of the visits to pubs and hospitality premises since they were permitted to re-open on 4th July 2020 and it was noted that much effort had taken place prior to this date to ensure premises were well prepared and had the necessary guidance.

Members received further information on the various new regulatory measures in effect, including the implications of the Rule of 6, Track and Trace using QR codes, table service, use of face coverings and the 10pm curfew.

It was noted that a total over 510 visits had been carried out resulting in approximately 140 written warnings and that premises would also face Fixed Penalty Notices of £1,000 per breach if they did not comply with the regulations.

Members of the Committee made the following comments:

- The extent of the non-compliance with those premises that had received a written warning, of which only a very small number had low levels of compliance.
- Congratulations to the various officers seeking to ensure compliance and thereby assist in public health measures during the pandemic.
- Clarification with regards to external tables and chairs and temporary pavement licences and their positioning on the highway.

RESOLVED: That the Committee notes the report.

12. LEGISLATIVE AND INDUSTRY UPDATE

Mr Glen Egan, Office Managing Partner advised the Licensing Committee of a recent decision of the High Court concerning the application of the Public Sector Equality Duty to licensing functions. It was noted that the case illustrated the difficulty of assessing the impact of licensing changes where the clientele of establishments and their protected characteristics are difficult to identify.

RESOLVED: That the Committee note the report.

13. FORWARD PLANNER

An update was requested on the changes to Fixed Odd Betting Terminal rules and also it was suggested whether the brand representative could provide a virtual presentation for a future meeting, subject to the pandemic.

RESOLVED:

That the Committee note the Forward Planner and suggest any alterations to, or additional items, as set out.

14. RATIFICATION OF PAST LICENSING SUB-COMMITTEE MINUTES

Members were updated on recent Licensing Sub-Committee decisions since the last meeting and ratified the minutes of the recent sub-committees hearing.

RESOLVED: That the Committee, with the agreement of any Members present at the following Sub-Committees that they are a correct record, ratify the minutes of the following meetings:

- 10am, 16 January 2020 – Public Minutes
- 10am, 5 February 2020 – Public Minutes
- 2pm, 5 February 2020 – Public Minutes
- 10am, 24 February 2020 – Public Minutes
- 10am, 20 July 2020 – Public and Private Minutes
- 10am, 7 August 2020 – Public Minutes
- 10am, 26 August 2020 – Public Minutes

This item was considered in Part II as it contained information relating to an individual, information which is likely to reveal the identity of an individual and information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. That the public interest in withholding the information outweighed the public interest in disclosing it (exempt information under paragraphs 1, 2 & 7 of Part 1 of Schedule 12A to the Local Government [Access to Information] Act 1985 as amended).

15. ANY ITEMS THE CHAIRMAN AGREES AS URGENT AND RELEVANT

No further items were considered.

The meeting closed at 12.20pm.

The public part of this virtual meeting was broadcast live on the [Council's YouTube channel here](#) under The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) (Regulations) 2020. These are the official minutes of the above meeting.

Minutes

Licensing Committee
Thursday, 14 January 2021
VIRTUAL



Published on: 15 January 2020
Come into effect on: Immediately (or call-in date)

Members Present:

Councillors Simon Arnold
Alan Chapman
Lynne Allen (Opposition Lead)
Nick Denys
Janet Gardner
Raymond Graham
John Hensley
Carol Melvin
John Oswell
Colleen Sullivan

1. ELECTION OF CHAIRMAN

RESOLVED: That Councillor Arnold be elected as Chairman of the Licensing Committee for the remainder of the 2020/2021 municipal year.

2. ELECTION OF VICE CHAIRMAN

RESOLVED: That Councillor Chapman be elected as Vice Chairman of the Licensing Committee for the remainder of the 2020/2021 municipal year.

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REVIEW OF LICENSING SUB-COMMITTEE HEARING PROTOCOLS & APPLICATION PROCEDURE

Committee name	Licensing Committee
Officer reporting	Stephanie Waterford, Planning Environment Education & Community Services
Papers with report	Appendix 1 - Officer Sub-Committee Procedure
Ward	All

HEADLINES

Following the adoption and implementation of the London Borough of Hillingdon's Statement of Licensing Policy in January 2021, the Licensing Sub-Committee Hearing Protocols have been updated and require adoption by the Licensing Committee.

RECOMMENDATIONS:

That the Committee:

- 1. Review and adopt the proposed two additions to the hearing protocols as set out in the report and:**
- 2. Note the updates to the Officer's application procedure and report information.**

SUPPORTING INFORMATION

At the meeting of the Licensing Committee in October 2020, Members provided feedback to Officers on what was working well and areas of improvement to both the Licensing Sub-Committee hearing protocols and also the information and submissions made by applicants, interested parties, responsible authorities etc prior to the report being published.

The majority of Members suggestions pointed to an improvement in the quality of the submissions from interested parties and information contained in the report and also an enhancement in the specialist policy guidance provided to Members at Licensing Sub-Committee hearings.

There have been little legislative changes since the protocols were introduced and they comply with the Licensing Act (Hearings) Regulations 2005 and, legally and procedurally, they have served well in the decision-making process.

It is, therefore, recommended that only a couple of minor changes be made to the hearing protocols themselves and that improvements are made to the Officer procedures and report contents to ensure that Members are provided will all relevant information in order to make strong and effective decisions.

Changes to hearing protocols

It is proposed that the following sections be inserted into the following hearing protocol, which cover two key points raised by Members at the October 2020 meeting;

- Protocol for new and variation applications under the Licensing Act 2003 and Gambling Act 2005
- Protocol for reviews under the Licensing Act 2003 and Gambling Act 2005
- Protocol for Scrap Metal Dealers Act 2013
- Protocol for Sex Establishment Licences
- Protocol for Street Trading Applications

1. In the section 'Who are the people on the Licensing Sub-Committee?'

Insert – 'A Licensing Policy advisor who will assist the Committee with licensing policy advice to ensure that decisions are made in line with the Councils Statement of Licensing Policy'

2. In the section 'Before the hearing'

Insert – 'Site visit – For complex cases which may impact on the surrounding area and/or for matters which cannot be understood from paper submissions alone, Members may conduct a site visit of the application site. This visit will be carried out between the date of the agenda being published and the date of the hearing and will be accompanied by Licensing Officers and/or Legal Advisors.'

These protocols are not attached to this report, as Members will be familiar with them. However, copies are available on request as background papers and if agreed, these insertions will be added to all them for future hearings as useful guidance all parties involved in the hearing.

Application procedure documentation

Following on from this, the internal Licensing Services procedure documents have been updated in line with the Licensing Committee discussion in October 2020.

Updates to these documents include;

- 1) A requirement to include Companies House information in the Sub-Committee report;
- 2) Requirement for Licensing Officers to include information from the Police where crime and disorder incidents are mentioned by residents;
- 3) Firmer guidance in the residents representation form around the quality of photo and video evidence.

The relevant documents used by the Licensing Service in respect of the application process are attached as follows for Members' information:

- Appendix 1 – Councillor Consultation Email
- Appendix 2 - Representation Form from Interested Parties
- Appendix 3 - Licence Application Petition Template (please note this is different to the standard petitions template, as these are treated as relevant representations).
- Appendix 4 – Internal Responsible Authority Representation Document
- Appendix 5 - Committee Licensing Report Template
- Appendix 6 – Addendum Template

The internal officer procedure is included as Appendix 7.

BACKGROUND PAPERS

- S182 Guidance under the Licensing Act 2003
- Hearing Regulations 2005
- Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020
- LBH Hearing Protocols

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Appendix 1 – Councillor Consultation email

Dear Cllrs,

As consultees to the licensing process, please be advised, that this department has received an application for a *new / variation* of premises licence for the following premises located in your ward.

Premise detailsxx

Xxxxx

Xxxxx

The application can be found on the council website *xxxxxxxxxxxxx*

The consultation period will end on (*date*) and any relevant representations to this application must be received by this date. We are unable to accept any representations received after this date or any representations that are not relevant.

Relevant representations need to relate to the one or more of the four licensing objectives, which are:

- Crime and disorder
- Prevention of children from harm
- Public safety
- Prevention of public nuisance.

Information on how to make a relevant representation can also be found on the council website. Alternatively you may contact the Licensing Service for advice on 01895 277433.

Please be advised that it is not part of our policy to include residents in the licensing consultation process, so you may wish to draw this application to the attention of, any residents associations or individual residents, in the vicinity of the premises.

Regards

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Appendix 2 - Representation Form from Interested Parties

(Please read notes on reverse before completing)

Your details (See notes 2 & 3);

Your Name	
Your residential address	
Your email address	
Your phone number	
The name of the body or organisation you represent	

About the premises;

Name of the premises you are making a representation about	
Address of the premises you are making a representation about	

The Licensing Objectives (See note 4);

Licensing Objective	Reasons for your representation and any supporting evidence
<p><i>Please tick;</i></p> <p>Prevention of Crime/Disorder</p> <p>Prevention of Public Nuisance</p> <p>Protection of Children From Harm</p> <p>Public Safety</p>	

The outcome you are seeking from the Licensing Authority (See note 6);

Signed: **Date:**

Notes:

- 1) All representations must be submitted before the conclusion of the 28 day consultation period. This will be advertised on the public notices and also on the Councils website.
- 2) Persons who may make representation include; persons who reside near to the premises to which the application relates and who are likely to be affected by licensable activities; residents associations who are

representing residents who reside near to the application premises; Ward Councillors representing their constituents; any person who lives or works in the area and has concerns about the application premises.

- 3) Please note that representations cannot be anonymous. Copies of all representations will be published in any Committee papers and will be sent to all persons involved with the hearing including the applicant. If you have concerns about the use of your information and would like to discuss this further, please contact one of our Licensing Officers for a discussion, on the contact details below.
- 4) In order to be considered 'relevant', the representation must relate to one or more of the 'Licensing Objectives'. These objectives are;
 - A) Prevention of Crime/Disorder - This relates to any criminal activity, disorder or anti-social behaviour related to the application premises.
 - B) Prevention of Public Nuisance - This relates to noise nuisance and vibration, litter, noxious smells, light pollution.
 - C) Protection of Children from harm - This relates to the protection of children whilst on the application premises.
 - D) Public Safety - This relates to the physical condition of the premises and the safety features provided for members of the public such as; fire safety, health & safety.
- 5) Upon submitting a representation, it is expected that you will attend the Licensing Sub-Committee hearing to deliver your representation verbally and answer any queries that the Committee may have. If you are unable to attend, your written representation will be considered.
- 6) You may wish to suggest an outcome to the Licensing Sub-Committee ie. grant the application with extra conditions; grant the application with fewer hours/activities; reject the application. Please note that the Licensing Sub-Committee will only make reasonable and proportionate decisions based upon the evidence they are presented with, and in line with the laws and regulations governing Licensing Hearings.
- 7) You may continue on separate sheets of paper if necessary and you may also attach any evidence which supports your representation. Please note that evidence including photos and video footage must be of a good quality and it should be clear to support the representation you are making.
- 8) Please submit all completed forms to:

**The Licensing Officer
Licensing Service
London Borough of Hillingdon
Civic Centre
High Street
Uxbridge, UB8 1UW**

licensing@hillingdon.gov.uk

Tel - 01895 277433

www.hillingdon.gov.uk/licensing

Appendix 3 - Licence Application Petition Template

(Please read notes before completing)

Your details as Lead Petitioner (See notes 2 & 3);

Your Name	
Your residential address	
Your email address	
Your phone number	
The name of the body or organisation you represent	

About the premises;

Name of the premises to which the petition relates	
Address of the premises to which the petition relates	

Reason for petition and the outcome you are seeking from the Licensing Authority;

Notes:

- 1) All petitions must be submitted before the conclusion of the 28 day consultation period. This will be advertised on the public notices and also on the Councils website.
- 2) Once submitted, petitions will become public documents and will be published in Committee papers. They will be sent to all parties to the hearing, including the applicant.
- 3) In order to be considered 'relevant', the petition must relate to one or more of the 'Licensing Objectives'. These objectives are; Prevention of Crime/Disorder; Prevention of Public Nuisance; Protection of Children from harm; Public Safety. The reason for the petition and the desired outcome must be repeated at the top of each signature page.
- 4) Upon submitting a petition, it is expected that the lead petitioner will attend the Licensing Sub-Committee hearing. If you are unable to attend, your petition will still be considered.

- 5) Please submit all completed forms to; **The Licensing Officer,**
Licensing Service
London Borough of Hillingdon
Civic Centre
High Street
Uxbridge, UB8 1UW
licensing@hillington.gov.uk

Tel - 01895 277433

www.hillingdon.gov.uk/licensing

State the reason for the petition and the desired outcome;

Appendix 4 - Internal Licensing Representation

From:

To: Licensing Officer

Location:

Ext:

My Ref:

Your Ref:

Date:

Dear Licensing Officer,

Re: Application for a variation/new premises licence- Licensing Act 2003

Address:

I refer to the application for a Premises Licence under the Licensing Act 2003, relating to the above named premises.

The ***** Team, in its capacity as a responsible authority, is making a representation to this application, in relation to the licensing objective, prevention of public nuisance/protection of children from harm/prevention of crime and disorder/public safety.

The grounds for this objection are:

I would therefore invite the Licensing Sub-Committee to consider this representation when making their decision regarding this application.

Yours faithfully,

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APPENDIX 5

TITLE: Refer to type of application being considered - i.e. 'variation of premises licence'	ITEM #
Committee	Licensing Sub-Committee
Officer Contact	Officer name, job title and extension number
Papers with report	<p>Appendices should be standard, where possible and should be in the following order;</p> <p>Appendix 1 - Application form (including premises plan) Appendix 2 - Site map of local area & photos of premises Appendix 3 – Companies House information (where relevant) Appendix 4 - Representations from Responsible Authorities (including any supporting information) Appendix 5 - Representations from Interested Parties (including any supporting information) Appendix 6 - Existing licence (if applicable)</p>
Ward name	e.g. Eastcote & East Ruislip
NOT FOR PUBLICATION This report contains confidential or exempt information	<i>This box is for PART 2 papers only which will not be circulated publicly. Please check with Democratic Services if you are unsure of what may be Part 2</i>

1.0 SUMMARY

1.1 *About 2 lines here e.g*

To consider a variation application for The Muddy Duck, Ickenham Road, Ruislip and relevant representations from Responsible Authorities and Interested Parties.

2.0 RECOMMENDATION

2.1 That the Licensing Sub-Committee determines whether to grant, refuse or amend the application as set out in the report.

3.0 APPLICATION

3.1 Name of applicant
Eg. Muddy Duck Pub Co Ltd

3.2 Type of application applied for
Eg. Variation of premises licence - to alter the operating times and to extend the dining room to accommodate more diners

3.3 Description of premises taken from the application form
Eg. Pub with substantial dining facilities

3.4 A copy of the application form and premises plan is attached as Appendix 1

3.5 A site map of the local area and photos of the premise are attached as Appendix 2.

3.6 Licensable Activities

<u>Activity</u>		<u>Permitted now</u>	<u>Proposed</u>
Sale of Alcohol:	Consumption on the premises	✓	
	Consumption off the premises		✓
Regulated Entertainment:	Plays		
	Films		
	Live Music	✓	
	Recorded Music		✓
	Performances of dance		✓
	Indoor Sporting Events		
	Boxing/Wrestling		✓
Late Night Refreshment		✓	

3.7 Licensable Activity Hours

	Sale of Alcohol		Regulated Entertainment		Late Night Refreshment	
	Existing	Proposed	Existing	Proposed	Existing	Proposed
Monday	10.00-23.00	10.00-00.00	10.00-23.00	No change		
Tuesday	10.00-23.00	10.00-00.00	10.00-23.00	No change		
Wednesday	10.00-23.00	10.00-00.00	10.00-23.00	No change		
Thursday	10.00-23.00	10.00-00.00	10.00-23.00	No change		
Friday	10.00-23.00	10.00-23.00	10.00-23.00	No change		
Saturday	10.00-23.00	10.00-23.00	10.00-23.00	No change		
Sunday	10.00-23.00	10.00-23.00	10.00-23.00	No change		

3.8 Opening Hours

	Existing	Proposed
Monday	10.00-23.30	10.00-00.30
Tuesday	10.00-23.30	10.00-00.30
Wednesday	10.00-23.30	10.00-00.30
Thursday	10.00-23.30	10.00-00.30
Friday	10.00-23.30	10.00-00.30
Saturday	10.00-23.30	10.00-00.30
Sunday	10.00-23.30	10.00-00.30

3.7 Operating Schedule and Conditions

The operating schedule can be found at page **XX** of the Application form in Appendix One.

This section of the application form outlines how the licensable activities will be managed in respect of each licensing objective. These measures have been translated into the following Annex 2 licence conditions:

- X
- X
- X

Should the committee be minded to amend any of these conditions, they will be removed from Annex 2 and placed in Annex 3.

4.0 **CONSULTATION**

4.1 Closing date for representations

Eg. 31st July 2021

4.2 Public Notice published in local newspaper

Eg. 7th July 2021

4.3 The application was published on the Councils website on **5th July 2021**. Responsible Authorities and Ward Members were notified of the application on **5th July 2021**.

X Responsible Authorities and **X** Interested parties have responded - See 5.0

5.0 REPRESENTATIONS

5.1 RESPONSIBLE AUTHORITIES - Appendix 3

Responsible Authority	Ground for Representation
Licensing Authority	Crime & Disorder; Public Nuisance
Police	Crime & Disorder
Environmental Protection Unit	Public Nuisance
Fire Authority	Public Safety
Public Health	
Trading Standards	
Planning Authority	
Safeguarding Children	
Food, Health & Safety	Public Safety

5.2 INTERESTED PARTIES - Appendix 4

Interested Party	Address	Grounds for Representation	Representative Body
Cllr		Crime & Disorder; Public Nuisance	Ward Councillor representing local residents
Residents Association		Crime & Disorder; Public Nuisance	Residents Association representing 20 residents & presenting a petition containing 45 signatures
Mr Joe Bloggs		Crime & Disorder; Public Nuisance	N/A
Mrs J Smith		Public Nuisance	N/A

5.3 The following Responsible Authorities have not responded and are therefore considered to have no concerns about this application:

X...
X...
X...

X....

6.0 BACKGROUND INFORMATION

6.1 Current Licences held

Eg. The premises have been licensed as a public house since 28th May 2007. The current premises licence holder is 'Muddy Duck Pub Co Ltd' who have held the licence since 31st June 2012.

6.2 Current Designated Premises Supervisor

Eg. Mr John Jones - No change is proposed currently

6.3 Description of the Premises

Eg. The premises occupy a large plot, including beer garden and car park for approx 20 vehicles. The property is detached with the main entrance fronting Ickenham Road, at the roundabout junction with Sharps Lane etc etc.

The pub backs onto Wood Close with 6 residential properties backing onto the pub garden.

The premises are well lit, benefiting from the street lighting at the front of the property and also good lighting in the rear car park and beer garden.

The property itself benefits from double glazing and a fitted ventilation system.

6.4 Other licensed premises nearby

Eg. The White Horse public house is located approx half a kilometre from the Muddy Duck on Street Road. The White Horse is currently licensed for alcohol sales, regulated entertainment and late night refreshment between 10.00 and 23.00 each day.

There are 2 off licences located on the nearby parade of shops on Passage Lane, both closing at 22.00 each day.

7.0 OFFICER'S OBSERVATIONS

7.1 Observations

This will be an assessment of the application based on facts

Such as:

- Number & type of relevant complaints received in addition to any reps.
- Case history of premises
- Case history of applicant
- Visits made by officers
- Mediation carried out
- Analysis of operating schedule against licence objectives i.e. does it go far enough to address the licensing objectives.

7.2 Relevant Sections of the S182 Guidance

X
X
X

7.3 Relevant Sections of the Hillingdon Licensing Policy

X
X
X

8.0 LEGAL AND POLICY CONSIDERATIONS

8.1 The terms of the Statement of Licensing Policy are highly persuasive, but not binding, on the Licensing Sub-Committee. The Licensing Sub-Committee may depart from the guidance contained in the Statement of Licensing Policy if it considers there are clear and convincing reasons to do so.

8.2 Where there is a conflict between the Licensing Act 2003 and the Statement of Licensing Policy, the Licensing Act 2003 must prevail.

8.3 When relevant representations are received then the Sub-Committee must have regard to them. Representations based on commercial reasons or need are not in themselves relevant representations. For example, a representation from a bar owner, that the grant of a premises licence to another bar, will take customers away from his/her premises, is not a relevant representation, nor is a representation from other persons that another off licence in the parade of local shops is not needed.

8.4 The Licensing Sub-Committee can attach a “weight” to any relevant representations, such factors that could influence the “weight” to be placed on a representation could include:

- Whether the representation can be clearly related to any one of the four licensing objectives;
- Whether the representation concerns matters over which the applicant is able to exercise control;
- Whether the representation is based on “hearsay” evidence;
- Whether the representation is supported by firm evidence;
- Whether the person making the representation has attended the hearing in person.

8.5 Having considered all relevant representations, and having taken into account the promotion of the licensing objectives, a decision can be taken:

- To grant the licence, subject to the mandatory conditions and conditions consistent with the operating schedule;
- To impose additional relevant conditions to such an extent as is considered necessary for the promotion of the licensing objectives;
- To exclude any of the licensable activities to which the application relates
- To amend the times for all or some of the licensable activities;
- To refuse to specify a person on the licence as the designated premises supervisor
- To reject the application

8.6 Conditions will not be necessary if they duplicate a current statutory requirement. Members are also referred to the Home Office guidance on conditions, specifically section 10 which states that licensing conditions should be tailored to the size, type,

location and characteristics and activities taking place at the premises. Conditions should be determined on a case by case basis and standardised conditions, which ignore these individual aspects, should be avoided. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions.

Licensing authorities should therefore ensure that any conditions they impose, are only those which are appropriate for the promotion of the licensing objectives.

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Appendix 6



HILLINGDON
LONDON

Meeting:	Licensing Sub-Committee	
Date:		Time:
Place:		

ADDENDUM SHEET

Item:	Page:	Location:
<i>Additional Information:</i>		<i>Officer Comments:</i>
Submissions from the Applicant are attached		None

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Appendix 7 - Procedure for Processing Licensing Applications

This procedure details how Licensing Officers will process Licensing applications and facilitate the Licensing Sub-Committee process.

1.0 Receipt of application into The Licensing Service

1.1 On receipt of all applications, a 'conflict of interest' test will be carried out and the application will be allocated to the most appropriate Licensing Officer to avoid such conflict.

1.2 Decision will be based on:

- past involvement such as any enforcement action
- any personal involvement with the applicant or premises
- any other matter that may impact on the application

1.3 Decisions on allocations will be made by the Licensing Service Manager or, in the case of absence, this will pass up the line of management

2.0 Consultation

2.1 The Licensing Officer will send the application to the Ward Councillors within the first 2 working days of the application being received. The standard wording in **Appendix 1** must be used for this consultation. Please do not add any further details or opinions about the application; this is for the responsible authorities to advise.

2.2 The Licensing Officer will ensure that the Responsible Authorities have been consulted.

2.3 The Licensing Officer will ensure that the application is posted on the website displaying the correct consultation end date.

3.0 Representations, Petitions & Mediation

3.1 Where representations are received within the correct period, the Licensing Officer will send an acknowledgement and/or assist with making representations in the correct format.

3.2 Representations must include the following information:

- Name
- Address
- Licensing objective/s under which representation is made

- Reason for objection

3.2 If this information is not provided, liaise with interested party to obtain the information. Templates for Ward Councillors and any other parties (excl. Responsible Authorities) are attached as **Appendix 2**.

3.3 If interested party cannot / will not provide this information, inform them that the representation is therefore 'not relevant' and will not be put before the Licensing Sub-Committee.

3.4 Petitions must include the following information:

- Name and address of each petitioner
- Licensing objective /s under which the petition is made, on each page.
- Reason/s for objection, on each page of the petition

It's a good idea to liaise only with the lead petitioner and ask them to represent all the signatories, rather than liaising directly with each one of them. A petition template is attached as **Appendix 3**.

3.5 If there is only one or two representations, either from an Interested Party or Responsible Authority, it may be possible to mediate rather than convene a Sub-Committee. Each case is to be assessed on its own merits and, if in doubt, seek advice from another officer/Manager.

4.0 Representation from Internal Responsible Authorities (RA's)

4.1 Representations from internal Responsible Authorities should be presented on the standard representations template. See **Appendix 4**.

4.2 Check all relevant information is included in the representation. If not, liaise with RA to obtain what is required.

4.3 Actively obtain a representation from all internal RA's that you feel can contribute to the hearing.

4.4 Where you are in receipt of concerns from interested party, but no representation has been received from the relevant responsible authority, please liaise and obtain a response. It may be that a simple response to say there is no objection is all that can be offered, but this is good to include in the report as it will demonstrate the stance of the responsible authority to the Sub-Committee.

5.0 Licensing Authority acting as Responsible Authority

5.1 The role of the Licensing Authority as Responsible Authority will be carried out by the Licensing Service Manager or Principal Licensing Officer

5.2 The assessment of the application, the writing and presenting of the Licensing Sub-Committee report will be carried out by the Licensing Service Manager or Principal Licensing Officer

6.0 Committee Report

6.1 To be completed in Word format using committee report template - see **Appendix 5**. However, please feel free to use a similar report for a similar previous case as a starting point.

6.2 Report to be completed by Licensing Officers and checked by a senior officer/manager before going to any other department.

6.3 Appendices must be to the standards detailed below.

6.4 A tick sheet can be used to ensure all correct documents are in place to the required standard.

6.5 Please note that all appendices are to be provided in PDF format and clearly marked with their correct Appendix label.

7.0 Appendices - Application & supporting evidence

7.1 Check all relevant parts of the application are complete and that supporting evidence is clear.

7.2 Ensure that supporting documentation and/or evidence is of good quality and standard. Please liaise with persons providing supporting evidence if you need to obtain further information or clarity on any item. Evidence of a poor quality where no discernible conclusion can be made must not be submitted.

7.3 Please remember that it is not for you to weigh evidence but you can assess its quality and relevance.

8.0 Appendices - Maps

- 8.1 The map must be produced from the GIS and should:
- Include the premise for which application is being made
 - Identify relevant neighbouring licensed premises.

- Identify impacted homes/business places of interested parties
- Have titles and other annotations added electronically (no hand written annotations)
- A large scale map should be provided for tabling at the committee hearing where it is perceived to be of benefit.

8.2 **No** Google street view / maps to be included - the Council does not have licence to use these.

9.0 Appendices – Photographs of the application premises

- All photographs to be taken during the consultation period at same time the poster is photographed.
- All photographs to be taken on good quality phone camera or work camera
- Take all views / angles that may be useful to the committee.

10.0 Appendices - Site Plan

10.1 Use the site plan that is included with the application. It must meet the requirements as laid down in the legislation before an application is accepted.

10.2 If it is not an acceptable quality on application, liaise with applicant to obtain satisfactory plan before accepting the application.

11.0 Appendices – Companies House Information

11.1 Where the applicant is a company, information from Companies House should be provided to the Committee as a standard item.

11.0 Existing or previous licences

11.1 Existing or previous licence to be included in all cases where a variation or review case is heard. In the case of new applications.

12.0 Addendums to committee report

12.1 Any addendums to be noted on template - see **Appendix 6**

12.2 Addendums may include amendments; or additional information i.e:

- Further submissions from persons making reps or the applicant
- Matters for clarification i.e. plans, further photos etc

13.0 Liaison with Democratic Services a & Legal Services

13.1 As soon as you think you may need a Sub-Committee date (likely to be during the consultation period), please contact Democratic Services (democratic@hillington.gov.uk). Please also view the Programme of Meetings to see if a suitable date is already scheduled. Please ensure you leave yourself enough time to produce the report and have it checked by Legal. Be extra cautious where you have a big, complicated case.

13.2 Please contact Legal Services and let them know that a report is on its way. You may need to discuss the case with Legal if it's particularly complex.

13.3 Send the report to Legal for comments including the full report and all final appendices. You should aim to allow Legal 3 working days to add their comments to the report. Give them a deadline.

13.4 Once Legal have provided comments, the report can be sent to Democratic Services for publishing.

13.5 Depending on the case, you will need to advise Democratic Services whether there are any appendices or other information which is to be heard in Part 2. Seek clarification from Legal if you are not sure.

13.6 You will also need to provide a list of names, addresses and email addresses for all parties to the hearing to Democratic. This is so they know who needs to be sent a Hearing Pack.

14.0 Chairman's briefing

14.1 A few days before the hearing, the Licensing Officer is required to brief the Chairman on the report and case. This will be with the Legal advisor and also the Democratic Services Clerk.

14.2 This will be arranged by Democratic Services.

15.0 After the hearing

15.1 The Legal Advisor will provide you with a final written decision notice which has been signed by the Chairman. This needs to go to all parties to the hearing within 5 working days of the hearing taking place.

16.0 Appeals

16.1 Licensing Officers should notify legal services immediately of any appeal lodged following a Licensing Sub-Committee decision. The Chairman should also be kept informed of progress through the appeal process.

LEGISLATIVE & COVID REGULATIONS UPDATE

Committee	Licensing Committee
Officer	Glen Egan, Office Managing Partner, Legal Services
Wards	All

HEADLINES

This report advises Licensing Committee of some decisions made by licensing committees where breaches of the Coronavirus legislation has taken place and of a recent decision of Uxbridge Magistrates' Court concerning The Office Public House, Northolt within the London Borough of Ealing.

RECOMMENDATION

That the Committee notes the report.

SUPPORTING INFORMATION

The Public Health (Control of Disease) Act 1984 enables the Secretary of State to make regulations that restrict activities from being carried out in order to "prevent or protect against the spread of infection". Over the last year a number of such regulations have been made, the general effect of which have been to restrict businesses from carrying out certain activities or to only carry out activities in a specified manner (for example by enforcing social distancing measures) or to require business to close or restrict their hours of opening.

Any breach of the regulations constitutes a criminal offence, punishable by an unlimited fine. As an alternative to prosecution, the police or local authority may serve a fixed penalty notice (FPN) offering the business the opportunity to avoid prosecution by paying the FPN. For a first offence the level of an FPN is generally £1,000, rising to a maximum of £10,000 for the 10th offence.

In addition to prosecuting under the Coronavirus legislation, legal action can also be taken under other legislation (for example, a Closure Order where the premises are associated with serious crime and disorder). In addition, a business breaching the legislation is liable to enforcement action from the licensing authority.

The cases listed below detail decisions made by local authorities and the courts.

Kate & Luc Café Restaurant, Manchester

In January 2021 Greater Manchester Police received reports of the Café being open for the consumption of Food & Drink inside the building, in breach of the Coronavirus legislation. An enforcement visit showed the Cafe to be "rammed serving over 30 people indoors without social distancing measures or mask wearing". It was also claimed that the Cafe was being advertised on anti-lockdown Facebook groups.

In early March 2021 Manchester City Council made a Closure Order for 48 hours on the premises pursuant to section 80 of the Anti-Social Behaviour, Crime and Policing Act 2014 because the premises were contributing to public disorder.

Any closure beyond 48 hours must be authorised by a Magistrates Court and following an application by Manchester City Council on 10 February 2020 Manchester Magistrates' Court ordered the closure of the premises for three months for their "complete disregard" of the Coronavirus legislation, finding also that use of the premises was undermining the licensing objectives of preventing crime and disorder, public nuisance and public safety.

Subsequently, Manchester City Council revoked the premises licence for a period of 3 months.

Caza Cruz Restaurant, Notting Hill

Breaches of the Coronavirus legislation came to light when pictures of Rita Ora's birthday party were published on social media. This led to a request by the Metropolitan Police for the revocation of the premises licence in order to prevent crime and disorder and public nuisance. In addition, the premises had refused entry to the Police investigating the incident and had turned off CCTV before the party started; being unable to produce any CCTV recordings for the 31 day period prior to the incident – all of which constituted breaches of the premises licence.

At a hearing before the Licensing Sub Committee of the Royal Borough of Kensington and Chelsea, the Restaurant stated that they had arranged to supply food to the celebrity's home but that when paparazzi gathered outside her home the restaurant was asked whether a party could take place at the restaurant. The Designated Premises Supervisor (DPS) made a spur of the moment decision to allow the party and agreed to switch off the CCTV. The Sub Committee received 44 representations from local restaurants supporting the restaurant, including 1 from a ward councillor. It did not receive any representations from residents supporting the revocation of the licence.

The Sub Committee concluded that the police were right to apply for the review and stated that it had seriously considered revoking the licence. The DPS was responsible for day-to-day management of the Restaurant and, although this was an isolated event, the Sub Committee suspended the licence for 6 weeks.

Melin Restaurant, Woodford

On 3 November 2020 the Metropolitan Police attended the Merlin Restaurant and found a large event taking place. The doors were locked and the windows had been blacked out, but through a gap officers could see that people inside were not wearing face coverings and were standing at the bar. There were also 2 DJs. The Police were denied entry and access and fire doors remained locked for 10 minutes. A post on Facebook showed a party taking place with 70-100 people inside, approximately 50 people dancing and the owner of the premises shouting "**** the lockdown".

At the time all hospitality businesses had to provide table service, with patrons and staff required to wear face coverings unless seated. Customers were not allowed to stand at the bar and DJ music was prohibited.

On an application by the Metropolitan Police for revocation of the licence, the Licensing Sub Committee of the London Borough of Redbridge found that the premises had operated as a dance

venue on at least 5 occasions in breach of the Coronavirus legislation and that the premises had operated with “complete disregard for the safety of staff, customers and the public at large” and also that on 3 occasions there were serious breaches of the premises licence conditions in respect of CCTV.

The London Borough of Redbridge therefore revoked the Licence.

The Office Public House, Northolt, London Borough of Ealing

On 7 October 2020 the Metropolitan Police applied to the London Borough of Ealing for a summary review of the Premises Licence because they considered that the premises were associated with “serious crime or serious disorder or both”. This followed visits to the premises from March 2020 onwards during which social distancing was not in place, the premises supervisor was inebriated, the premises were open at 1AM (as opposed to the permitted time of 10PM) and loud music, singing and chanting was taking place. In addition, the Police had been refused entry and been subject to abuse with the door barricaded to prevent them gaining entry.

On 9 October 2020 the Licensing Sub Committee of the London Borough of Ealing suspended the premises licence as an interim step pending a full decision of that committee. The full hearing took place on 2 November 2020 at which both the police and premises licence holder were represented. The Licensing Sub Committee decided that it would be disproportionate to revoke the premises licence because the licence had been transferred a few days previously to J & D Properties (London) Ltd. The Sub Committee removed the Designated Premises Supervisor (Mr Walsh) and restricted the hours of operation to 11PM Monday - Saturday and 10:30PM on Sundays. In addition, the outside area of the premises was not be used for any purpose after 10PM.

However, the Licensing Sub Committee did not lift the interim step of suspending the licence, meaning that the public house could not open for licensable activities until an appeal to the Magistrates’ Court was determined. The Pub’s appeal against Ealing’s decision not to lift the suspension appeal was heard on 22 December 2020. District Judge Wright gave judgement on 13 January 2021. In her judgement she held as follows:

1. An appeal to the Magistrates’ Court operates as a hearing de novo and the burden of showing that the decision of the Sub Committee is wrong rests with the appellant.
2. In deciding whether to take an interim step of suspending the licence, Ealing were entitled to consider all licensing objectives whether or not the activities taking place comprised serious crime or disorder.
3. The reasons given by the Sub Committee on 10 October 2020 (when it suspended the licence) “were not as full as they might have been” but “by this time all of the licensing objectives were engaged and they were entitled to look at public safety as it is abundantly clear, even from the brief reasons they gave, that they did. I could not say that the decision was wrong”.
4. The reasons given at the hearing on 2 November 2020 “ could have been fuller” and modification of the conditions on the premises licence were justified because “all of the licensing objectives were engaged and I cannot say their decision in this respect was wrong”.
5. However, the Licensing Sub Committee “gave no reasons for continuing the interim step of suspension and it is clear that they intended for the licence to be modified in a way that

enables J & D Properties (London) Ltd to continue to undertake licensable activities at The Office. In the light of their clear determination that the revocation of the licence was not necessary, it seems to be illogical for them to determine that the interim step of suspension should continue and so I determine that this part of their decision was wrong”.

6. Having considered the position de novo and applying the statutory guidance, the District Judge held that: “since the beginning of the pandemic Mr Walsh was operating the premises in breach of coronavirus regulations, first by opening when he was not supposed to at all during the first national lockdown and subsequently by allowing customers on the premises after the time there were supposed to have left in September and October. Covid 19 is a potentially deadly virus which has presented a very significant threat to the lives of many, the health of many others and its control is something governments all over the world are striving for, at great cost, in every conceivable sense of the word. It is evident that not only Mr Walsh, but also his customers failed to recognise the seriousness of the threat to public health that Covid 19 represents and the importance of behaving in accordance with both the legislative provisions and government guidance in order to control its spread. We ignore those steps not just at our own peril, but at the peril of others we come into contact with. The Police have experienced hostility and abuse in trying to prevent breaches of the regulations. The noise nuisance has persisted. It is true that the local authority were well aware of the problems and appear to have done little to address the issue over a long period of time. That is not a good reason to say the local residents should continue to endure difficulties whilst the substantive appeal is pending.
7. The Judge continued: “whilst I am of the view that it is not appropriate to continue the interim step of suspension, I am satisfied that it is appropriate to impose interim steps to prevent further nuisance and breaches of Coronavirus regulations. The steps which I am taking are more restrictive than those imposed by the licensing authority.... because the Licensing Sub Committee gave insufficient weight to the problems being encountered by local residents.”
8. The Judge therefore removed Mr Walsh as Designated Premises Supervisor and ordered that no licensable activities were to take place whilst he or any of his relatives had any legal interest in the premises or business. The Judge restricted licensable activities to 10:30 PM and for the outside area of the premises to be closed after 9PM every day.”

Conclusion

The appeal concerning The Office, Northolt appears to be the first reported case of an appeal from a decision of a Licensing Sub Committee following enforcement action taken for breaches of the Coronavirus legislation and suggests that courts will take a firm stance in respect of such breaches in order to protect public health and uphold the licensing objectives.

BACKGROUND PAPERS

Magistrates Court Judgement

STRICTLY NOT FOR PUBLICATION

Exempt information by virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972 (as amended).

Agenda Item 9

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