

- The Metropolitan Police Service
- London Fire & Emergency Planning Authority
- Child Protection Service, LBH
- Food, Health & Safety, LBH
- Environmental Protection Unit, LBH
- Trading Standards Service, LBH
- Planning Service, LBH
- Public Health, LBH

The application was advertised (local paper) by the applicant in accordance with the standard procedures required by the Licensing Act 2003. The expiry date for making representations was 13th February 2015.

A representation was received from Councillor John Morse at Appendix 2; A representation was submitted by the Licensing Authority at Appendix 3. Further representations were submitted by the Environmental Protection Unit at Appendix 4 and by three local residents at appendix 5, 6 and 7.

A petition was received with forty two signatures at Appendix 8.

3.3 List of Representations

	Prevention of Crime & Disorder	Public Safety	Prevention of Public Nuisance	Protection of Children from Harm
Councillor Morse			X	
John Abiona Environmental Protection			X	
Claire Freeman Licensing Authority				
Christine O'Connor		X	X	
K.W. Bitumba			X	X
Mrs J Frankland			X	
Petition	X		X	X

3.4 General Information

- 3.5 The premise is a detached garage on the land of an extended semi detached house situated on the corner of Mildred Avenue at the junction of Ross Close, Hayes. Vehicular access to the premises is via Ross Close where the lock up garage is situated and the entrance of which faces Ross Close. The garage is accessible via two large metal doors being part of the party wall. There is a vehicle hard standing between these gates and the garage door. Pedestrian access is the same way or through the main house and garden at 54 Mildred Avenue.

3.6 In section 5 and section 18, the application contains a number of measures that address, to some extent, how the business is proposed to be undertaken. Within the application, the applicant explains in part 5, the proposed usage of the building. This explanation is part of the operating schedule and thus the information outlined would be the subject of conditions on any grant of the licence, this being subject to any committee decisions.

3.7 A plan of the site is attached as **Appendix 10**.

4.0 LEGAL IMPLICATIONS

4.1 Principles for making the determination

The general principle is that applications for Premises Licence applications must be granted unless relevant representations are received. This is subject to the proviso that the applicant has complied with regulations in advertising and submitting the application.

4.2 Relevant representations are those which:

- Are about the effect of the granting of the application on the promotion of the licensing objectives
- Are made by a Responsible Authority or other persons
- Have not been withdrawn
- Are not, in the opinion of the relevant Licensing Authority, frivolous or vexatious.

4.3 The four licensing objectives are:

- Prevention of crime and disorder;
- Public safety;
- Prevention of nuisance; and
- Protection of children from harm.

Members should note that each objective is of equal importance. There are no other licensing objectives, and the four objectives are paramount considerations at all times.

4.4 The Licensing Sub-Committee must also consider the London Borough of Hillingdon's Statement of Licensing Policy when deciding whether or not to grant the application.

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.

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

4.5 Members are required to have regard to the Home Office Guidance issued under section 182 of the Licensing Act 2003 in carrying out the functions of licensing authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, members may depart from it if they have reason to do so. Full reasons must be given if this is the case.

- 4.6 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.
- 4.7 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.
- 4.8 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.

4.9 Conditions

- 4.10 Conditions will not be necessary if they duplicate a current statutory requirement.
- 4.11 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.

4.12 Reasons

If the Sub-Committee determines that it is necessary to modify the conditions, or to refuse the application for a Premises Licence application, it must give reasons for its decision.

4.13 The Role of the Licensing Sub-Committee

Sub-Committee members will note that, in relation to this application, the Council has multiple roles. Council officers from various departments have been asked to consider the application from the perspective of the Council as an authority responsible respectively for environmental health, trading standards, health and safety, safeguarding children, public health and as the planning authority.

- 4.14 Members should note that the Licensing Sub-Committee is meeting on this occasion solely to **perform the role of licensing authority**. The Sub-Committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, Members should disregard the Council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the Licensing Law, Guidance and the Council's Statement of Licensing Policy.
- 4.15 As a quasi-judicial body the Licensing Sub-Committee is required to consider the application on its merits. The Sub-Committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of relevant facts, the occurrence of which would be relevant.
- 4.16 The Licensing Sub-Committee must give fair consideration to the contentions of all persons entitled to make representations to them.
- 4.17 The Licensing Sub-Committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.
- 4.18 The Sub-Committee can only consider matters within the application that have been raised through representations from Responsible Authorities and other persons. This will be decided on a case to case basis.
- 4.19 Under the Human Rights Act 1998, the Sub Committee needs to consider the balance between the rights of the applicant and those making representations to the application when making their decision. The Sub-Committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the Borough.
- 4.10 Responsible Authorities, other persons making representations and the applicant have the right to appeal the decision of the Sub-Committee to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified by the licensing authority of the decision to be appealed against.

5.0 FINANCIAL IMPLICATIONS

5.1 Members should be aware that the Residents Services directorate does not have a budget provision for costs, should the applicant be successful in appealing to the Magistrates Court against a decision of the Council. In the event that a Court was to uphold an appeal, officers would need to identify how the costs would be funded before action could be taken in order to comply with Council financial policy.

6.0 BACKGROUND DOCUMENTS:

- The Licensing Act 2003
- Guidance under Section 182 of the Licensing Act 2003
- The Council's Statement of Licensing Policy