

# Application to vary a Premises Licence: Aroma Lounge

<b>Committee</b>	Licensing Sub-Committee
<b>Officer Contact</b>	Steven Dormer, Licensing Officer
<b>Papers with report</b>	<b>Appendix 1</b> - Application for the variation of a premises licence <b>Appendix 2</b> - Current Licence <b>Appendix 3</b> - Responsible Authority Representations <b>Appendix 4</b> - Residents Representations <b>Appendix 5</b> - Councillor Representation <b>Appendix 6</b> - Map of the area and Photos
<b>Ward name</b>	<b>Eastcote and East Ruislip</b>

## 1.0 SUMMARY

To determine an application for a variation of a premises licence as seen in **Appendix 1** in respect of Mahalaxmi Catering Limited T/A Aroma Lounge, 134 Field End Road, Eastcote, Middlesex, HA5 1RJ.

## 2.0 RECOMMENDATION

The Licensing Sub Committee show consideration to the hours suggested by the Responsible Authorities for Licensing and the Metropolitan Police Service and consider adding to the licence the following conditions.

1. That the DPS or his/her representative shall conduct regular assessments of the noise coming from the premises on each occasion there is regulated entertainment, and shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record shall be kept in a log book and shall include the time and date of the checks, the person making them and the findings, including any remedial action.
2. That customers shall be encouraged to disperse quietly and avoid congregating outside the premises at closing time.

## 3.0 APPLICATION

The applicant has applied to vary two conditions of the current licence. The applicant is wishing to remove the restriction on alcohol being sold as part of a table meal. The applicant also wishes to increase the amount of persons permitted from 65 to 90 people. The applicant has also applied to include the provisions of Live Music and increase the hours of operation.

The applicant has agreed to amend the application. Licensing hours will cease at 01:00 on Friday and Saturday. The time the premises will open until on Friday and Saturday will be 01:30.

### 3.1 Type of application applied for

Premises Licence variation application under Licensing Act 2003.

### 3.2 Description of the premises

The premise was previously operating as a sit down restaurant with alcohol supplied as part of a table meal. There are currently no restrictions on the opening hours of the premises. Aroma Lounge is located in Field End Road the main shopping and business area of Eastcote. Above the Aroma Lounge are residential dwellings.

### 3.3 Current and proposed times for licensable activities

<u>Times currently authorised</u>		<u>Variation proposed</u>
Late Night Refreshment	From 23:00 until 30 minutes after the terminal hour time for the sale of alcohol	No change proposed
Sale of alcohol	From 10.00 - 24.00 Mon-Sat, 12.00 - 23.30 Sun	12.00 - 24.00 Mon-Thu, 12.00 - 02.00 Fri-Sat 12.00 - 23.30 Sun
Recorded Music	Currently not time restricted	No change proposed

### 3.4 Current and proposed opening hours

	Existing opening hours	Proposed opening hours
<b>Monday</b>	Non Restricted	12:00 - 00:30
<b>Tuesday</b>	Non Restricted	12:00 - 00:30
<b>Wednesday</b>	Non Restricted	12:00 - 00:30
<b>Thursday</b>	Non Restricted	12:00 - 00:30
<b>Friday</b>	Non Restricted	12:00 - 02:30
<b>Saturday</b>	Non Restricted	12:00 - 02:30
<b>Sunday</b>	Non Restricted	12:00 - 4:00

3.5 Other relevant premises licensed premises nearby

Premises	Activities Authorised	Times Authorised
<p>Ascot, 144 Field End Road, Eastcote, HA5 1RJ</p>	<p><b>Sale of alcohol</b>  <b>Live music</b>  <b>Recorded music</b></p> <p><b>Late Night Refreshment</b></p>	<p>Monday and Tuesday between 11.00 hours and 23.00 hours                      Wednesday between 11.00 hours and 00.00 hours                      Thursday, Friday and Saturday between 11.00 hours and 01.00 hours the following day                      Sunday between 11.00 hours and 00.00 hours</p> <p>Wednesday between 23.00 hours and 00.00 hours                      Thursday, Friday and Saturday between 23.00 hours and 01.00 hours the following day                      Sunday between 23.00 hours and 00.00 hours</p>
<p>Geo Bar, 163 Field End Road, Eastcote, HA5 1QL</p>	<p><b>Sale of Alcohol</b>  <b>Regulated Entertainment</b></p> <p><b>The provision of late night refreshment (indoors only)</b></p>	<p>Sunday 10:00 to 23:30</p> <p>Monday to Thursday between 10.00 and 00.00 hours</p> <p>On Fridays and Saturdays between 10.00 hours and 01.00 hours the following day</p> <p>On Sundays between 23.00 hours and 23.30 hours                      Mondays, to Thursdays between 23.00 hours and 00.00 hours</p> <p>On Fridays and Saturdays between 23.00 hours and 01.00 hours the following day</p>

### 3.6 Current Licence & Conditions

#### **Appendix 2**

### 4.0 **CONSULTATION**

4.1 Closing date for representations  
5<sup>th</sup> July 2019

4.2 Public Notice published in local newspaper  
12<sup>th</sup> June 2019

### 5.0 **REPRESENTATIONS**

5.1 We have received three representations from Responsible Authorities

<b>Responsible Authority</b>	<b>Ground for Representation</b>	<b>Appendix</b>
Stephanie Waterford Licensing Authority	Prevention of Public Nuisance	Appendix 3
PC David Butler Metropolitan Police Licensing	Prevention of Crime and Disorder, Prevention of Public Nuisance	Appendix 3
Mark Oakley Anti Social Behaviour Officer	Prevention of Public Nuisance,	Appendix 3

5.2 We have received seven representations from residents

<b>Name and Address</b>	<b>Grounds for Representation</b>	<b>Appendix</b>
Joyce Slaymaker,	Prevention of Crime and Disorder	Appendix 4
Holly Cant & Emily Leather,	Prevention of Crime and Disorder and Prevention of a Public Nuisance	Appendix 4
Peter Somogyi & Mrs Addy Rodriguez Suarez	Prevention of Crime and Disorder, Prevention of Public Nuisance, Protection of Children from Harm, Public Safety	Appendix 4
John Bawden	Prevention of Crime and Disorder	Appendix 4
Warren Reeve,	Prevention of crime and disorder, Prevention of public nuisance, Protection of children from harm, Public	Appendix 4

	Safety	
Lesley Crowcroft, 	Prevention of Crime and Disorder, Prevention of public nuisance, Public Safety	Appendix 4
Chris Ayres,	Prevention of Crime and Disorder, Prevention of Public nuisance	Appendix 4

### 5.3 Councillor Representation

Cllr Becky Haggard Eastcote & East Ruislip Ward	Prevention of Crime and Disorder, Prevention of a Public Nuisance	Appendix 5
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## 6.0 BACKGROUND INFORMATION

### 6.1 Designated Premises Supervisor

Shiba Hari Tiwari has been the Designated Premises Supervisor since 6<sup>th</sup> June 2019.

### 6.2 Current Licence Holder

Mahalaxmi Catering Ltd has been the licence holder since the 6<sup>th</sup> June 2019.

### 6.3 Map and Photos

#### **Appendix 6**

## 7.0 OFFICER'S OBSERVATIONS

7.1 This is an application to vary a premises licence for a restaurant formally trading as Eastcote Tandoori. Previously the premises operated as restaurant for alcohol to be consumed with a table meal. The applicant is seeking to vary the premises licence to remove conditions to enable customers to purchase alcohol without the need to purchase a table meal.

There have been significant changes in the physical layout of the premises to accommodate customers seeking a table meal. In addition to the offering a table meal patrons will be offered a lounge bar area for non dining customers. Further provisions to include off sales of alcohol have been applied for.

Under the current licence Live Music was not permitted. The variation is seeking to include the provision of Live Music to the licence.

A site visit was carried out on the 5<sup>th</sup> July 2019. During the visit works were being carried out at the premises. The premises was not trading at the time of the visit.

7.2 The representations received mainly raise the following issues:

**The prevention of crime and disorder-** Representations from interested parties all have concerns about a potential increase in crime and disorder should the application be granted as applied for. Interested Parties are concerned that there are already issues with crime and ASB in the area and that Aroma Lounge will contribute further to this if the variation is allowed.

The Licensing Authority and Metropolitan Police Service have communicated concerns about the lack of measures proposed to uphold the licensing objectives.

**The prevention of public nuisance** - Interested Parties have concerns that this application if granted could have a direct impact in relation to noise and disturbances from Aroma Lounge and that this would affect their wellbeing.

Mark Oakley from Hillingdon Council's Anti Social Behaviour Team echoes similar concerns over the impact the application may have on local residents.

**The protection of children from harm** - Interested Parties that have indicated the objective as a concern. None of the responsible authorities have expressed concerns that children would be at risk from harm should this application be granted.

**Public Safety** - Interested Parties have expressed concerns that the Public Safety objective will be undermined however, there is little explanation to expand on how this may be an issue. None of the Responsible Authorities have concerns with Public Safety being undermined.

## 8.0 Relevant sections of S.182 Guidance

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

**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".

**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".

**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 76 | Revised Guidance issued under section 182 of the Licensing Act 2003 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**

**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**

**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"

### **Licensing hours**

**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".

**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".

### **The need for licensed premises**

**At paragraph 14.19** it states "There can be confusion about the difference between the "need" for premises and the "cumulative impact" of premises on the licensing objectives, for example, on crime and disorder. "Need" concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of Revised Guidance issued under section 182 of the Licensing Act 2003 I 109 licensing policy".

## **9.0 Relevant sections of the Licensing Policy**

### **Licensing Hours**

**At Paragraph 21.1** 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".

**At Paragraph 21.2** 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".

**At Paragraph 21.3** 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".

**At Paragraph 21.4** 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".

## **10.0 LEGAL CONSIDERATIONS**

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

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

Applications must be considered with regard to the principles of fair process and the Human Rights Act 1998.

When considering an application for the variation of an existing Premises Licence, only the variation is subject to determination. 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); and
- reject whole or part of the application to vary the licence.

Any modification of conditions should be confined to those considered appropriate in respect of the particular variation sought