

Application for the grant of a Premises Licence: COCO Leisure Ltd

Committee	Licensing Sub-Committee
Officer Contact	Jhini Mukherjee, Licensing Officer
Papers with report	<p>Appendix 1 - Application for the grant of a new Premises Licence Appendix 2 - Representation from Licensing Authority Appendix 3 - Representation from Trevor Sherling on behalf of Northwood Residents' Association Appendix 4 - Representation from interested party, Mr John Dolling Appendix 5 - Representation from Reverend A. Lynes from Holy Trinity Northwood Church Appendix 6 - Emails from ward councillors, namely, Cllr Scott Seaman-Digby and Cllr Carol Melvin Appendix 7 - Map of the area Appendix 8 - Photo of the premises Appendix 9 - Previous Licence in the name of Azzurri Restaurants Limited</p>
Ward name	Northwood

1.0 SUMMARY

To consider an Application for a Premises Licence for a bar/restaurant as seen in **Appendix 1** in respect of COCO Leisure Ltd, located at 35A Green Lane, Northwood HA6 2PX. Representations have been made from one Responsible Authority and three Interested Parties. Northwood ward Councillors Scott Seaman-Digby and Councillor Carol Melvin have emailed supporting the objections.

The operating schedule set out in the application is too brief and not robust enough to uphold the Licensing Objectives.

2.0 RECOMMENDATION

To grant the licence with additional conditions as proposed in the Licensing Authority's representation in Appendix 2.

3.0 APPLICATION

3.1 Licensable Activities

<u>Activity</u>		<u>Proposed for new premises licence</u>
Recorded Music and Provision of Dance	Indoors	x
Late Night Refreshment	Both	x

Sale of alcohol	Consumption on and off the premises	x
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3.2 Opening Hours and Proposed Hours for Licensable Activity

	Recorded Music	Performance of Dance	Late Night Refreshment	Sale By Retail of Alcohol
Monday	23:00 – 01:00	23:00 – 01:00	23:00 – 01:00	10:00 – 01:00
Tuesday	23:00 – 01:00	23:00 – 01:00	23:00 – 01:00	10:00 – 01:00
Wednesday	23:00 – 01:00	23:00 – 01:00	23:00 – 01:00	10:00 – 01:00
Thursday	23:00 – 01:00	23:00 – 01:00	23:00 – 01:00	10:00 – 01:00
Friday	23:00 - 02:00	23:00 - 02:00	23:00 - 02:00	10:00 - 02:00
Saturday	23:00 - 02:00	23:00 - 02:00	23:00 - 02:00	10:00 - 02:00
Sunday	23:00 - 00:00	23:00 - 00:00	23:00 - 00:00	10:00 - 00:00

	Opening Hours of The Premises
Monday	09:00 - 01:30
Tuesday	09:00 - 01:30
Wednesday	09:00 - 01:30
Thursday	09:00 - 01:30
Friday	09:00 - 03:00
Saturday	09:00 - 03:00
Sunday	09:00 - 00:30

3.3 Type of Application Applied For

New Premises Licence application under Licensing Act, 2003

3.4 Description of The Premises

The premise is a single unit restaurant on the ground floor with residential flats above situated on a parade of shops on a busy high street.

3.5 Other Licensed Premises Nearby

Premises	Activities Authorised	Times Authorised
Waitrose, 52 Green Lane, Northwood, HA6 2XW	Sale by retail of alcohol	Monday to Sunday - 07.00 hours to 23.00 hours.
Regal Kebab & Fish Bar, 63 Green Lane, Northwood, HA6 3AD	Late night refreshment	Monday to Thursday - 23.00 hours to 00.00 hours; Friday and Saturday - 23.00 hours to 01.00 hours
Lomito, 41 Green Lane, Northwood, HA6 3AE	Sale by retail of alcohol Regulated Entertainment Late Night Refreshment (LNR)	<u>Sale of alcohol</u> Monday to Sunday - 10.30 hours to 00.00 hours; <u>Regulated Entertainment</u> Monday to Sunday - 23.00 hours to 00.00 hours; <u>LNR</u> Monday to Sunday - 23.00 hours to 00.00 hours
ASK Restaurant, 35 A Green Lane, Northwood, HA6 2PX	Sale by retail of alcohol Provision of recorded music Late Night Refreshment (LNR)	<u>Sale of alcohol</u> Monday to Saturday - 10.00 hours to 00.00 hours; Sundays - 12.00 hours to 23.30 hours; <u>Regulated Entertainment</u> Monday to Saturday - 23.00 hours to 00.30 hours; Sundays - 23.00 hours to 00.00 hours; <u>LNR</u> Monday to Saturday - 23.00 hours to 00.30 hours; Sundays - 23.00 hours to 00.00 hours
Brisa 36 (Caffe Casa Mia), 36 Green Lane, Northwood, HA6 2QB	Sale by retail of alcohol	Monday to Sunday - 11.00 hours to 22.00 hours
Melisi, 29 Green Lane, Northwood, HA6 2PX	Sale by retail of alcohol Regulated Entertainment Late Night Refreshment	<u>Sale of alcohol</u> Sunday to Wednesday - 11.30 hours to 23.00 hours; Thursday - 11.30 hours to 00.00 hours; Friday and Saturday - 11.30 hours to 01.00 hours;

		<p><u>Regulated Entertainment</u> Sunday to Thursday - 23.00 hours to 23.30 hours; Friday and Saturday - 23.00 hours to 00.00 hours <u>LNR</u> Thursday - 23.00 hours to 00.00 hours; Friday and Saturday - 23.00 hours to 01.00 hours</p>
Northwood Piazza, 28 Green Lane, Northwood, HA6 2QB	Sale by retail of alcohol Regulated Entertainment Late Night Refreshment	<p><u>Sale of alcohol & Regulated Entertainment</u> Monday to Thursday - 10.00 hours to 00.00 hours; Friday and Saturday - 10.00 hours to 01.00 hours; Sunday - 12.00 hours to 23.30 hours <u>LNR</u> Monday to Thursday - 23.00 hours to 00.30 hours; Friday and Saturday - 23.00 hours to 01.30 hours; Sunday - 23.00 hours to 00.00 hours</p>
Maharaja Restaurant, 24 Green Lane, Northwood, HA6 2QB	Sale by retail of alcohol Regulated Entertainment Late Night Refreshment	<p><u>Sale of alcohol</u> Monday to Saturday - 10.00 hours to 00.00 hours; Sundays - 12.00 hours to 23.30 hours <u>Regulated Entertainment</u> Monday to Saturday - 23.00 hours to 00.30 hours; Sundays - 23.00 hours to 00.00 hours <u>LNR</u> Monday to Saturday - 23.00 hours to 00.30 hours; Sundays - 23.00 hours to 00.00 hours</p>
Misty Moon, 27 Green Lane, Northwood, HA6 2PX	Sale by retail of alcohol Regulated Entertainment Late Night Refreshment	<p><u>Sale of alcohol</u> Monday to Saturday - 10.00 hours to 00.00 hours; Sundays - 12.00 hours to 00.00 hours; <u>Regulated Entertainment</u> Monday to Sunday - 23.00 hours to 00.30 hours; <u>LNR</u> Monday to Sunday - 23.00 hours to 00.00 hours</p>
Red Klove 48 High Street Northwood	Sale by Retail Of Alcohol Provision of regulated entertainment The provision of late night refreshment	<p><u>Sale of alcohol</u> From 11.00 hours until 24.00 hours, Monday to Saturday From 11.00 hours until 22.30 hours on Sunday</p>

		<p><u>Regulated Entertainment</u> From 11.00 hours until 24.00 hours, Monday to Saturday From 11.00 hours until 22.30 hours on Sunday <u>LNR</u> From 23.00 hours until 24.00 hours, Monday to Saturday</p>
Bina Tandoori 110 High Street Northwood	<p>The sale by retail of alcohol Provision of regulated entertainment The provision of late night refreshment</p>	<p><u>Sale of alcohol</u> From 10.00 hours until 24.00 hours, Monday to Saturday From 12.00 hours until 23.30 hours on Sunday <u>Regulated Entertainment</u> The provision of recorded music is not time restricted <u>LNR</u> From 23.00 until 30 minutes after the terminal time for the sale of alcohol.</p>

3.6 Operating Schedule and Conditions

Section 18 of the Operating Schedule of the Application demonstrates the steps the applicant proposes to take in order to promote the Licensing Objectives.

The Prevention of Crime and Disorder

CCTV shall be installed in the premises and that it shall be operational at all times that the premises is trading. It is further expected that all CCTV recordings shall be retained for a minimum of 28 days and a copy of any such recordings made available to an authorised officer, within 24 hours of the request being made.

Public Safety

Door staff will be employed on Friday and Saturday nights to make sure patrons disperse safely.

The Prevention of Public Nuisance

A notice will be displayed asking patrons to leave quietly.
Music will be played at a level that would not cause a nuisance to nearby residents.
No glass bottles will be emptied after 2100.

The Protection of Children from Harm

The premises will operate a Challenge 25 policy, such that all customers who appear to be under the age of 25 shall be challenged to prove that they are over 18 when attempting to

purchase alcohol. The only acceptable forms of identification for proof of age would be a photo driving licence, passport, or home office approved identity card bearing the holographic “PASS” mark. All staff working at the premises should be fully trained and aware of the scheme and appropriate training records maintained.

4.0 CONSULTATION

4.1 Closing date for representations

18 January 2021

4.2 Public Notice published in local newspaper

06 January 2021 – Uxbridge Gazette

5.0 REPRESENTATIONS

5.1 We have received one representation from the Licensing Authority acting as the Responsible Authority under the Act

Responsible Authorities	Ground for Representation	Appendix
Licensing Authority	Prevention of Crime and Disorder Prevention of Public Nuisance. Public Safety	Appendix 2

5.2 We have received three representations from interested parties

Interested Parties	Ground for Representation	Appendix
Mr Trevor Shirling on behalf of Northwood Residents' Association	Prevention of Crime and Disorder, Prevention of Public Nuisance, Public safety, Protection of Children From Harm	Appendix 3
Mr John Dooling	Prevention of Crime and Disorder, Prevention of Public Nuisance	Appendix 4
Reverend A. Lynes from Holy Trinity Northwood Church	Prevention of Crime and Disorder, Prevention of Public Nuisance, Protection of Children From Harm	Appendix 5

5.3 Emails from Councillor Scott Seaman-Digby and Councillor Carol Melvin are appended as **Appendix 6.**

6.0 BACKGROUND INFORMATION

6.1 Designated Premises Supervisor

The proposed Designated Premises Supervisor is Sanjay Malik who has applied for a Personal Licence with London Borough of Hillingdon.

6.2 Map of the area and photos of the surrounding area are attached as **Appendices 7 and 8.**

7.0 OFFICER'S OBSERVATIONS

7.1 This is an Application for a Premises Licence for a bar/restaurant. This premises previously benefitted from a Premises Licence for a restaurant known as ASK Italian. The previous licence, appended as **Appendix 9**, lapsed on 14 August 2020 after the Licence Holder, Azzurri Restaurants Limited, went into administration on 17 July 2020.

7.2 The representations received mainly raise the following issues:

The Prevention of Crime and Disorder, The Prevention of Public Nuisance - All the representations refer to the 'The Prevention of Crime and Disorder' and 'The Prevention of Public Nuisance' objectives under the Act. The Operating Schedule provided by the Applicant is not extensive enough to uphold the objectives in their entirety. The additional conditions as suggested in Appendix 2 by the Licensing Authority are appropriate and sufficient for the promotion of these and the concerns raised by the Interested Parties too could be overcome by these recommended conditions.

Public Safety – The Licensing Authority and Mr Trevor Sherling have referred to this objective in their representations. The recommended conditions as proposed in Appendix 2 by the Licensing Authority put in place the elements which are essential in promoting this Licensing Objective. The conditions proposed are proportionate to the nature of the business applied for, its location in relation to residential premises nearby while they also boost the financial viability of the business and manage and encourage the night-time economy.

The Protection of Children from Harm – Mr Trevor Sherling and Reverend Ann Lynes have referred to this objection in their representations. The Applicant has proposed important conditions in his operating schedule which we think are robust enough for a premises in that location and of that size and sufficient to promote and uphold this licensing objective.

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, the Revised Guidance issued under section 182 of the Licensing Act 2003 informs that 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

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."

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."

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"

At paragraph 10.15 it states "Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours".

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".

At Paragraph 21.5 it states that "Shops, stores and supermarkets licensed to sell alcohol will normally be allowed to do so for the full duration of their trading hours. Restrictions may be applied, for example where representations are made indicating the particular premises or patrons of the premises are linked to disorder and or disturbance".

Licence Conditions

At Paragraph 17.1 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.

At Paragraph 17.2 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".

At Paragraph 17.3 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

The Licensing hearing is governed by the Licensing Act 2003, as amended and Licensing (Hearings) Regulations 2005. These provide that hearings should be held in public unless the Licensing Authority considers that the public interest in excluding the public outweighs the public interest in the hearing taking place in public.

If a Member of the Sub-Committee has a conflict of interest on the Application being determined, they should not have any involvement in the decision making on the Application.

When considering an application for a grant of a new Premises Licence, the Sub-Committee shall carry out its functions with a view to taking steps it considers appropriate for promoting the licensing objectives. The licensing objectives are:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- 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.

The Sub-Committee must ensure that all licensing decisions:

- Have a direct relationship to the promotion of one or more of the four licensing objectives
- Have regard to the Council's statement of licensing policy
- Have regard to the Secretary of State guidance
- Must not be subject to a blanket policy to the extent that it is applied so rigidly that an exercise of discretion in each individual case is precluded.

Relevant representations are those that relate to the effect of the granting of the application on the promotion of the licensing objectives made by an interested party or responsible authority that have not been withdrawn and are not, in the opinion of the relevant licensing authority, frivolous or vexatious s.18(7) Licensing Act 2003.

The Sub-Committee can only consider matters within the application that have been raised through representations from interested parties and responsible authorities. Interested parties must live in the vicinity of the premises. This will be decided on a case to case basis.

Following a hearing, the Sub-Committee must consider all relevant representations, and having taken into account the promotion of the licensing objectives, under s.18(3)(b) and (4) Licensing Act 2003, a decision can be taken to: -

- i. To grant the licence, subject to the mandatory conditions and conditions consistent with the operating schedule;
- i. To impose additional relevant conditions to such an extent as is considered necessary for the promotion of the licensing objectives;
- ii. To exclude any of the licensable activities to which the application relates;
- iii. To amend the times for all or some of the licensable activities;
- iv. To refuse to specify a person in the licence as the Premises Supervisor
- v. To reject the application

Conditions will not be necessary if they duplicate a current statutory requirement. The Licensing Authority may therefore only impose such conditions that are necessary to promote the licensing objectives arising out of the consideration of the representations.

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.

The Council in its capacity as Licensing Authority has a duty to 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: -

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

Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, race, religion or belief, sex sexual orientation, marriage and civil partnership and pregnancy and maternity.

Interested Parties, Responsible Authorities 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.