

Application for a grant of a Premises Licence: Tokyo Fizz (Pink Hospitality Limited), 109 High Street, Ruislip, HA4 8JN

Committee	Licensing Sub-Committee
Officer Contact	Steven Dormer, Licensing Officer 01895 277409
Papers with report	Appendix 1 - Application Form Appendix 2 - Officer recommendation Appendix 3 - Representation Appendix 4 – Map of the area Appendix 5 – Photos of the premises
Ward name	West Ruislip

1.0 SUMMARY

To determine an application for a Premises Licence in respect of Tokyo Fizz (Pink Hospitality Limited) 109, High Street Ruislip, HA4 8JN. A copy of the application is included as **Appendix 1**.

2.0 RECOMMENDATION

See **Appendix 2**.

3.0 APPLICATION

The application for a premises licence has been applied for by Fiona Blackwell via Richard Morgan of Brick Mortar Solicitors.

The application is for the sale of alcohol between the hours of 1400 and 0000.

3.1 Type of application applied for:

New Premises Licence.

3.2 Proposed Designated Premises Supervisor:

Myles David Golding – Personal Licence issuing authority, London Borough of Brent.

3.3 Description of the Premises:

The premises are located in a small retail unit on Ruislip High Street. The premises offers Japanese Sushi dining. A restaurant serving Japanese Sushi and alcoholic drinks.

3.4 Licensable Activity

<u>Activity</u>		<u>Proposed for new licence</u>
Sale of alcohol	On the premises	✓

3.5 Proposed Licensable Activity & Opening Hours

	Sale of alcohol
Monday	1400 - 0000
Tuesday	1400 - 0000
Wednesday	1400 - 0000
Thursday	1400 - 0000
Friday	1400 - 0000
Saturday	1400 - 0000
Sunday	1400 - 0000

4.0 **CONSULTATION**

4.1 Closing date for representations

21st October 2021

4.2 Newspaper Advert

Published Uxbridge Gazette 6th October 2021.

5.0 **REPRESENTATIONS**

5.1 One representation received

Responsible Authority	Grounds for Representation	Appendix
Daniel Ferrer (Responsible Authority for Licensing)	The prevention of crime and disorder The prevention of public nuisance Public Safety The protection from children from harm	Appendix 3

6.0 BACKGROUND INFORMATION

6.1 Other relevant licensed premises nearby

Premises	Activities Authorised	Times Authorised
Kho Kho,	<p>The sale of alcohol</p> <p>Late night refreshment</p> <p>Regulated Entertainment</p>	<p>The sale of alcohol Sunday to Thursday between 1000 hours and 0000 hours Friday and Saturday between 1000 hours and 0130 hours the following day</p> <p>Late night refreshment Sunday to Thursday between 2300 hours and 0030 hours Friday and Saturday between 2300 hours and 0200 hours the following day</p> <p>Regulated Entertainment Sunday to Thursday between 2300 hours and 0000 hours Friday and Saturday between 2300 hours and 0130 hours the following day</p>
Melisi Restaurant 129 High Street Ruislip HA4 8JY	<p>Sale by Retail of Alcohol</p> <p>Late Night Refreshment</p> <p>Regulated Entertainment (indoors only) - Recorded Music</p>	<p>Regulated Entertainment (Recorded Music) (Indoors Only): - 0730 - 2330, Sunday to Thursday 0730 - 0000, Friday and Saturday</p> <p>The sale of alcohol by retail: - 1130 - 2300, Sunday to Wednesday 1130 - 0000, Thursday 1130 - 0100, Friday and Saturday</p> <p>Late Night Refreshment: - 2300 - 0000, Thursday 2300 - 0100, Friday and Saturday</p>
Smugglers Cove 153 High Street Ruislip HA4 8JY	<p>Sale by retail of alcohol</p> <p>Provision of regulated entertainment (Indoors)</p> <p>Performance of live music</p> <p>Playing recorded music</p> <p>Performance of dance and entertainment of a similar description</p>	<p>Live Music, Performances of dance, and entertainment of a similar description, Provision of facilities for making music, dancing and anything of a similar description:</p> <p>On Sundays between 1500 hours and 0000 hours On Mondays, Tuesdays, Wednesday between 1800hours and 2300 hours On Thursdays between 1800 hours and 0000 hours On Fridays between 1800 hours and 0030 hours on the days following On Saturdays between 1500 hours and 0100 hours on the days following</p> <p>Recorded Music</p>

		<p>On Sundays between 1200 hours and 00.00 hours On Mondays, Tuesdays, Wednesday between 1100hours and 2330 hours On Thursdays between 1100 hours and 0030 hours On Fridays between 1100 hours and 0100 hours on the following day On Saturdays between 1100 hours and 0130 hours on the following day</p> <p>The sale by retail of alcohol</p> <p>On Sundays between 1200 hours and 00.00 hours On Mondays, Tuesdays and Wednesdays between 1100 hours and 2300 hours On Thursdays between 1100 hours and 0000 hours On Fridays between 1100 hours and 0030 hours on the days following On Saturdays between 1100 hours and 0100 hours on the days following</p> <p>Late night refreshment</p> <p>On Thursdays between 2300 hours and 0000 hours On Fridays between 2300 hours and 0100 hours on the days following On Saturdays between 2300 hours and 0130 hours on the days following On Sundays between 23.00 hours and 24.00 hours</p>
<p>Hop & Vine 18 High Street Ruislip HA4 8JY</p>	<p>The sale by retail of alcohol</p>	<p>On Sunday, Monday, Tuesday, Wednesday and Thursday, between 11:00 and 22:00 hours. On Friday and Saturday, between 11:00 and 23:00 hours</p>

6.2 Map of the area

See **Appendix 4.**

6.3 Photos of the premises

See **Appendix 5**

Photo 1 – Rickshaw on the pavement. Plus the interior of the premises from the pavement.

Photo 2 – The outside of the premises and the proximity of the residential dwellings above the premises.

6.4 Visits made by Local Authority Licensing Officers

On Friday 10th September 2021 whilst carrying out visits in Ruislip it was apparent that the premises was open. Both Principal Licensing Officer Lois King and I observed that the premises was serving alcohol without a licence. It was also observed that a rickshaw advertising the presence of the business was placed on the sidewalk without permission from Hillingdon Council or the appropriate insurance. Under section 180 of the Licensing Act 2003 only Police Constables have the power of entry to investigate offences under the act. Lois King and I observed from the pavement the activities taken place inside.

7.0 OFFICER'S OBSERVATIONS

7.1 Application Process.

The application was submitted on the 23rd August 2021. The application was not supported by a valid plan of the premises. On the 15th September 2021 the application was deemed valid and the consultation process commenced.

Visits was made by officers on Friday 17th September 2021 to check the statutory blue notice was being displayed at the premises. The blue notice was not displayed and the consultation process was restarted.

7.2 Management of the premises

Contained in Daniel Ferrer's representation letter it gives a picture on how the premises has been managed in its brief history. A rickshaw advertising the presence of the business was placed on the public highway without consent from the local authority and proof of Public Liability Insurance. This covers the business in case of damage to street furniture or the highway.

'Fly-posting' is regulated by the Town and Country Planning (Control of Advertisements) Regulations 2007 SI/2007/783 (COA Regulations) which implement the statutory advertising controls contained in section 220 of the Town and Country Planning Act 1990 (TCPA). The Local Authority must give consent for an advertisement to be displayed, unless it is exempt from control or has deemed consent. The premises is neither exempt nor deemed to have consent.

Any advertisement displayed in contravention of the regulations is an offence. The maximum sentence is a level 4 fine (£2,500). The offence is summary only. Additional fines of £250 may be imposed for each day an offence continues after conviction. (s.224(3) TCPA 1990) To place such items on the public highway would require an application, no such application was made and no public liability insurance was in place as such, the Anti-Social Behaviour Officers issued a fixed penalty notice. This is subject to further action by the way of prosecution by the Anti Social Behaviour Tea. The fixed penalty notice has yet to be paid.

Hillingdon Council Food Health and Safety have awarded the premises with a '1' - Major improvement is necessary rating for Food Safety Standards. This further underlines the issues with management of the premises.

Compliance with other primary legislation and regulations relevant to the business demonstrates a lack of confidence in management.

Mr Ferrer's representation letter has concerns over Mr Golding's ability to uphold the licensing objectives. There is potential for poor management of a licence premises to cause disorder to residents. The licensing objectives are there to ensure that no negative consequences are experienced by residents. Mr Ferrer has demonstrated these concerns in his representation

8.0 RELEVANT SECTIONS of the s.182 GUIDANCE and HILLINGDON'S LICENSING POLICY

At paragraph 8.48 it states: "All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached Revised Guidance issued under section 182 of the Licensing Act 2003 I 57 to premises licences with the minimum of fuss."

At paragraph 9.38 it states: "In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to: Revised Guidance issued under section 182 of the Licensing Act 2003

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy."

9.0 Relevant Sections of the Hillingdon Licensing Policy

At paragraph 2.5 it states: "In respect of all licensing functions and determination of any licensing policy, the

Council has a duty to promote the four licensing objectives:

- The prevention of crime and disorder;
- The protection of children from harm;
- The prevention of public nuisance;
- Public safety."

At paragraph 12.1 it states "Licensing Sub Committees will be mindful that licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises. When addressing public nuisance the applicant should identify any particular issues that are likely to affect adversely the promotion of the licensing objective to prevent public nuisance. They should then include in the operating schedule how they will deal with those matters. The concerns mainly relate to noise nuisance from within the premises or from the use of any outside areas, light pollution, smoke and noxious smells. Due regard will be given to the impact these may have and the Licensing Authority will expect operating schedules to satisfactorily address these issues."

At paragraph 12.7 it states: "Applications referred to the Licensing Sub-Committee will be determined on the individual merit of each case. The Licensing Sub-Committee have the power to impose specific conditions when considered necessary in respect of the Prevention of Public Nuisance objective"

10.0 LEGAL CONSIDERATIONS

10.1 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

- 10.2 Members should note that each objective is of equal importance. There are no other licencing objectives and the four objectives are paramount considerations at all times.
- 10.3 An application for a new premises licence may be made pursuant to s.16 and s.17 of the Act, and with regard to the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005/42 and the licensing Act 2003 (Fees) Regulations 2005/79.
- 10.4 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
- 10.5 Where relevant representations are made, the Licensing Authority must hold a hearing to determine the application, unless all are agreed that such a hearing is unnecessary s.18(3)(a) Licencing Act 2003.
- 10.6 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 licencing authority, frivolous or vexatious s.18(7) Licensing Act 2003.
- 10.7 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 within the vicinity of the premises. All applications will be decided on a case by case basis.
- 10.8 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:-
- i. To grant the licence, subject to the mandatory conditions and conditions consistent with the operating schedule;
 - ii. To impose additional relevant conditions to such an extent as is considered necessary for the promotion of the licensing objectives;
 - iii. To exclude any of the licensable activities to which the application relates;
 - iv. To amend the times for all or some of the licensable activities;
 - v. To refuse to specify a person in the licence as the premises supervisor;
 - vi. To reject the application.
- 10.9 Conditions will not be necessary if they duplicate a current statutory requirement. The licencing Authority may therefore only impose such conditions that are necessary to promote the licensing objectives arising out of the consideration of the representations.
- 10.10 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.
- 10.11 The Council in its capacity as Licensing Authority has a duty to have regard to its public sector equality duty under s.149 of the Equality Act 2010. In summary s.149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:
- i. Eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;

- ii. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- iii. Foster good relations between persons who share relevant protected characteristics and persons who do not.

10.12 Section 149(7) of the Equality Act 2010 defines nine relevant protected characteristics these are:

- i. age
- ii. gender reassignment
- iii. being married or in a civil partnership
- iv. being pregnant or on maternity leave
- v. disability
- vi. race including colour, nationality, ethnic or national origin
- vii. religion or belief
- viii. sex
- ix. sexual orientation

10.13 Officers have provided the Sub-Committee with recommendations related to this application. Subject to the above-mentioned factors having been properly considered, the Sub-Committee may depart from the recommendations if there are good reasons for doing so. The Sub-Committee is advised that such departures could give rise to an appeal or judicial review.

10.14 Interested parties, Responsible Authorities and the Applicant have the right to appeal the decision of the Licensing 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.