

# Application for the grant of a Premises Licence: Ten Restaurant, 10 Victoria Road, Ruislip HA4 0AA

<b>Committee</b>	Licensing Sub-Committee
<b>Officer Contact</b>	Mark McDermott, Licensing
<b>Papers with report</b>	<b>Appendix 1</b> - Application for the grant of a new Premises Licence <b>Appendix 2</b> - Plan of premises <b>Appendix 3</b> - Representation from Interest Parties x 6 (a) to (g) <b>Appendix 4</b> - Representation from Licensing Authority <b>Appendix 5</b> - Agreement with Anti-Social Behaviour Team <b>Appendix 6</b> - Map of the area <b>Appendix 7</b> - Photo of the premises <b>Appendix 8</b> - Companies House Record <b>Appendix 9</b> - Existing Premises Licence
<b>Ward name</b>	Manor

## 1.0 SUMMARY

To consider an application for a new Premises Licence as seen in **Appendix 1** in respect of Ten Restaurant, 10 Victoria Road, Ruislip HA4 0AA which has attracted 8 representations received from 6 residents, a Ward Councillor and the Licensing Authority.

## 2.0 RECOMMENDATION

**That the Licensing Sub-Committee grant the licence, with due consideration to reducing the hours and adding further conditions as deemed appropriate to uphold the licensing objectives.**

## 3.0 APPLICATION

A new Premises Licence application has been made by Mr Bajram Mani on behalf of the applicant Ten Restaurant Limited for whom Mr Mani is the Sole Director please see Companies House excerpt at **Appendix 8**. The premises are situated at 10 Victoria Road, Ruislip HA4 0AA.

The application is to authorise the Sale of alcohol (on and off supplies) on Sundays to Thursdays from 1200 to 2330 hours and on Fridays and Saturdays 1200 to 0100 hours. Regulated entertainment indoors for the provision of live music from 2300 to 0100 on Fridays and Saturdays, recorded music, Sundays to Thursdays from 2300 to 2330 hours and Fridays and Saturdays from 2300 to 0100 hours. Late night refreshment (indoors) on Sundays to Thursdays from 2300 to 2330 hours and Fridays and Saturdays from 2300 to 0100 hours

The application also seeks an extension to the above hours for licensable activities on Christmas Eve, Boxing Day and New Year Eve for an additional 2 hours to standard timing.

Opening times Sunday to Thursday from 1200 - 0000 hours and Friday to Saturday 1200 - 0130 hours.

### 3.1 Type of application applied for

New Premises Licence application under Licensing Act, 2003.

### 3.2 Description of the premises

The premises is a proposed restaurant on the ground floor (with external seating) with residential flats above situated on a parade of shops located on a busy street.

### 3.3 Licensable Activities

<u>Activity</u>		<u>Proposed for new premises licence</u>
Sale of alcohol	Consumption on and off the premises	x
Regulated entertainment (provision of live music, recorded music and dance performances)	Indoors	x
Late Night Refreshment	Indoors and outdoors	x

### 3.4 Opening Hours and proposed hours for licensable activity

	Live Music	Recorded Music	Late Night Refreshment	Sale of Alcohol
<b>Monday</b>		23:00 – 23:30	23:00 – 23:30	12:00 – 23:30
<b>Tuesday</b>		23:00 – 23:30	23:00 – 23:30	12:00 – 23:30
<b>Wednesday</b>		23:00 – 23:30	23:00 – 23:30	12:00 – 23:30
<b>Thursday</b>		23:00 – 23:30	23:00 – 23:30	12:00 – 23:30
<b>Friday</b>	23:00 – 02.00 Agreed reduction of terminal hour to 00.30 with ASBET	23:00 - 01:00	23:00 - 01:00	12:00 - 01:00
<b>Saturday</b>	23:00 – 02.00 Agreed reduction of terminal hour to 00.30 with ASBET	23:00 - 01:00	23:00 - 01:00	10:00 - 01:00
<b>Sunday</b>		23:00 - 23:30	23:00 - 23:30	12:00 – 23:30

	Opening Hours of The Premises
<b>Monday</b>	12:00 - 00:00
<b>Tuesday</b>	12:00 - 00:00
<b>Wednesday</b>	12:00 - 00:00

<b>Thursday</b>	12:00 - 00:00
<b>Friday</b>	12:00 - 01:30
<b>Saturday</b>	12:00 - 01:30
<b>Sunday</b>	12:00 - 00:00

### 3.5 Other licensed premises nearby

<b>Premises</b>	<b>Activities Authorised</b>	<b>Times Authorised</b>
<i>Rajdoot Tandoori 59 Windmill Hill, Ruislip HA4 8PU</i>	<p><b>The sale of alcohol</b></p> <p><b>Late night refreshment</b></p> <p><b>Regulated Entertainment</b></p> <p><b>The provision of Films (Indoors)</b></p>	<p><b>The provision of regulated entertainment (indoors only)</b> From 11.00 hours until 00.30 hours the following day, everyday</p> <p><b>The sale of alcohol by retail</b> From 11.00 hours until 01.00 hours the following day, everyday</p> <p><b>The provision of Films (indoors)</b> From 11.00 hours to 0100 hours</p> <p><b>Late night refreshment (indoors only)</b> From 23.00 until 01.00 hours the following day, everyday</p>
<i>Jamaican Lounge Jamaican Cuisine 108-110 Pembroke Road, Ruislip, HA4 8NW</i>	<b>Sale by Retail of Alcohol</b>	<b>Sale by Retail of Alcohol</b>  From 12.00 hours until 23.00 hours everyday
<i>Fizz Bar 7 Victoria Rd, Ruislip HA4 9AA</i>	<p><b>Sale by retail of alcohol</b></p> <p><b>Provision of Late Night Refreshment (Indoors only)</b></p>	<p><b>Sale of alcohol</b> From 06.30 hours until 23.30 hours everyday</p> <p><b>Provision of late night refreshment</b> From 23.00 hours until 23.30 hours everyday</p>
<i>JJ Moons 12 Victoria Rd, Ruislip HA4 0AA</i>	<p><b>Sale of alcohol</b></p> <p><b>Regulated entertainment</b></p> <p><b>Late Night Refreshment</b></p>	<p><b>All Activities</b> On Sunday, Monday, Tuesday, Wednesday and Thursday, except Christmas Eve, New Years Eve and Boxing Day, between 09:00 hours and 00:30 hours. On Friday and Saturday, except Christmas Eve, New Years Eve and Boxing Day, between 09:00 hours and 01:00 hours. On Christmas Eve and Boxing Day between 09:00 hours and 02:00 hours. On New Years Eve from 09:00 hours until 09:00 hours on New Years Day.</p>

		<p><i>On the days stated below, an additional hour following the times detailed above:-</i></p> <p><i>Burns Night – 25 January</i>  <i>Australia Day – 26 January</i>  <i>St. David’s Day – 1 March</i>  <i>St. Patrick’s Day – 17 March</i>  <i>St George’s Day – 23 April</i>  <i>St. Andrew’s Day - 30 November</i></p> <p><i>On the days stated below, an additional 30 minutes following the times detailed above:-</i></p> <p><i>Thursdays preceding Easter</i>  <i>Sundays preceding a Bank Holiday</i></p> <p><i>Between the hours of 06:00 and 03:00 the following day, on no more than 12 occasions per calendar year, subject to providing the Licensing Service, the Councils Environmental Protection Unit and the Metropolitan Police Service 10 working days notice, and then only on receiving a subsequent ‘CONSENT’ from the Councils Licensing Service, in respect of this agreement to the specified day and/or times applied for.</i></p> <p><i>The provision of recorded music is not time restricted</i></p>
<p><i>Hennessys</i>  <i>36 Victoria Rd, Ruislip</i>  <i>HA4 0AG</i></p>	<p><b><i>The sale by retail of alcohol</i></b></p> <p><b><i>The provision of regulated entertainment (indoors) being:-</i></b></p> <ul style="list-style-type: none"> <li><b><i>• performance of live music</i></b></li> <li><b><i>• playing recorded music</i></b></li> <li><b><i>• performance of dance and</i></b></li> <li><b><i>• entertainment of a similar description</i></b></li> </ul> <p><b><i>Late night refreshment (indoors)</i></b></p>	<p><b><i>Sale of alcohol by retail and regulated entertainment:-</i></b></p> <p><i>Monday to Wednesday from 10.00 hours to 00.30hours the following day</i>  <i>Thursday from 10.00 hours to 01.00 hours the following day</i>  <i>Friday and Saturday from 10.00 hours to 02.00 hours the following day</i>  <i>Sunday from 10.00 hours to 01.00 hours the following day</i></p> <p><b><i>Provision of late night refreshment</i></b></p> <p><i>Monday to Wednesday from 23.00 hours to 00.30 hours the following day</i>  <i>Thursday from 23.00 hours to 01.00 hours the following day</i>  <i>Friday and Saturday from 23.00 hours to 02.00 hours the following day</i>  <i>Sunday from 23.00 hours to 01.00 hours the following day</i></p>
<p><i>Manor Bar</i>  <i>68 Victoria Rd, Ruislip</i>  <i>HA4 0AH</i></p>	<p><b><i>Provision of regulated entertainment for recorded music (indoors only)</i></b></p> <p><b><i>Sale by retail of alcohol</i></b></p>	<p><b><i>All Activities</i></b></p> <p><i>From 11.00 hours until 24.00 hours, Monday to Thursday</i>  <i>From 11.00 hours until 01.00 hours the following day, Friday and Saturday</i>  <i>From 12.00 hours until 22.30 hours on Sunday</i></p>

		<p>From 11.00 hours until 03.00 hours the following day on Christmas Eve, Boxing Day, New Years Eve and New Years Day</p> <p>From 11.00 hours until 01.00 hours the following day, on Sunday and Monday of Easter Weekend, May Bank Holiday, Spring Bank Holiday and August Bank Holiday</p>
<p><i>Master Chef</i> 74 Victoria Rd, Ruislip HA4 0AH</p>	<p><b>The sale by retail of Beer, Cider and Wine only</b></p> <p><b>Recorded music and the provision private music and dancing</b></p> <p><b>Late night refreshment</b></p>	<p><b>The sale of alcohol by retail</b></p> <p>On weekdays, other than Christmas Day, Good Friday or New Year's Eve, between 10.00 and 23.00 hours.</p> <p>On Sundays, other than Christmas Day or New Year's Eve, between 12.00 and 22.30 hours.</p> <p>On Good Friday, between 12.00 and 22.30 hours.</p> <p>On Christmas Day, from 12.00 to 15.00 and 19.00 to 22.30 hours.</p> <p>When New Year's Eve is on a weekday, from 10.00 on New Year's Eve until 23.00 hours on New Year's Day, except when New Year's Day is on a Sunday, then the sale of alcohol shall cease at 22.30.</p> <p>When New Year's Eve is on a Sunday, from 12.00 on New Year's Eve until 23.00 hours on New Year's Day.</p> <p><b>Late night refreshment</b></p> <p>From 23.00 to 30 minutes after the terminal time for the sale of alcohol.</p> <p>The provision of recorded music is not time restricted</p> <p>The provision of 'private entertainment' (being music and dancing and entertainment of the like kind) is not time restricted</p>
<p><i>Eat Lebo</i> 80 Victoria Rd, Ruislip HA4 0AL</p>	<p><b>Sale by retail of alcohol</b></p> <p><b>Provision of late night refreshment</b></p>	<p><b>Provision of late night refreshment:</b></p> <p>From 23.00 until 23.30 hours, Friday and Saturday</p> <p><b>Sale of alcohol:</b></p> <p>From 12.00 hours until 23.00 hours, Monday to Saturday</p> <p>From 13.00 hours until 23.00 hours on Sunday</p>
<p><i>Istanbul Turkish Grill</i> 89 Victoria Rd, Ruislip HA4 9BH</p>	<p><b>Sale by retail of alcohol</b></p>	<p><b>Sale of alcohol</b></p> <p>From 12:00 hours until 23:00 hours Monday to Saturday</p> <p>From 12:00 hours until 22:00 hours Sunday</p>

<p>Spice Tandoori 95 Victoria Rd, Ruislip HA4 9BH</p>	<p><b>The sale by retail of alcohol</b></p> <p><b>The provision of late-night refreshment (indoors only)</b></p> <p><b>Recorded music (indoors only)</b></p> <p><b>Provision of entertainment facilities for making music, dancing and entertainment of a similar description for the purpose of private functions (indoors only)</b></p>	<p><b>Sale of alcohol</b> On weekdays, other than Christmas Day, Good Friday or New Year's Eve, between 10.00 hours and 24.00 hours. On Sundays, Christmas Day and on Good Friday, between 12.00 hours and 23.30 hours.</p> <p>In addition to the hours detailed above from the start of licensed hours on New Year's Eve to the start of licensed hours on New Year's Day.</p> <p><b>Provision of late night refreshment</b> On weekdays, other than Christmas Day, Good Friday or New Year's Eve, between 23.00 hours and 24.00 hours. On Sundays, Christmas Day and on Good Friday, between 23.00 hours and 23.30 hours. Between 23.00 hours on New years Eve and 05.00 hours on New Years Day.</p> <p>The provision of recorded music is not time restricted.</p> <p>The provision of entertainment facilities for making music, dancing and entertainment of a similar description is not time limited for the purpose of private functions.</p>
<p>The Sizzle 104 Victoria Rd, Ruislip HA4 0AL</p>	<p><b>Sale by retail of alcohol</b></p>	<p>From 12:00 hours until 22:00 hours, Monday to Friday</p> <p>From 12:00 hours until 23:00 hours on Saturday</p> <p>From 12:00 hours until 21:00 hours on Sunday</p>
<p>Ora Brasserie 117-119 Victoria Rd, London, Ruislip HA4 9BN</p>	<p><b>Sale by retail of alcohol</b></p> <p><b>Provision of recorded music (indoors only)</b></p> <p><b>Provision of facilities for private regulated entertainment for music and dancing (indoors only)</b></p> <p><b>Provision of late night refreshment (indoors only)</b></p>	<p>On weekdays, other than Christmas Day, Good Friday or New Year's Eve, between 10.00 and 00.00 hours.</p> <p>On Sundays, Christmas Day and on Good Friday, between 12.00 and 23.30 hours.</p> <p>When New Year's Eve is on a weekday, from 10.00 on New Year's Eve until 10.00 hours on New Year's Day, except when New Year's Day is on a Sunday, then the sale of alcohol shall cease at 23.30.</p> <p>When New Year's Eve is on a Sunday, from 12.00 on New Year's Eve until 00.00 hours on New Year's Day.</p>

		<p><i>The provision of recorded music is not time restricted</i></p> <p><i>The provision of facilities for 'private entertainment' (being music and dancing and entertainment of the like kind) is not time restricted</i></p>
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### 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, which the applicant provided as follows:

#### General

1. Strict implementation of challenge 25 policy.
2. CCTV is installed with 31 days recording system.
3. All staff to be trained in responsible alcohol retailing.
4. Training manual will be available at the premises.
5. Records will be kept of training and refresher training.

#### The Prevention of Crime and Disorder

The premises shall only operate as a restaurant:

1. In which customers are shown to their table
2. Where the supply of alcohol is by waiter or waitress service only
3. Which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery
4. Which do not provide any take-away service of food or drink for immediate consumption, (v) which do not provide any take-away service of food or drink after 00.00 and
5. Where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.
6. Notwithstanding this condition customers are permitted to take from the premises part consumed and resealed bottles of wine supplied ancillary to their meal.
7. Closed Circuit Television (CCTV) systems that capture head and shoulders images of persons entering the premises and all points of sale is installed, operate and record video images at all times that the premises are open to the public.
8. A clear head and shoulders image of the 'challenged' person and ID offered by the 'challenged' person to be recorded by the point of sale CCTV, all staff to be trained in the procedure and the CCTV regularly monitored to ensure compliance.
9. All CCTV recordings made shall be retained for not less than 31 days and be made available to a police or an authorized (*sic*) officer of any responsible authority within one hour upon request. In accordance with current data protection legislation. A member of staff capable of operating the CCTV system and downloading images shall be at the premises at all times that the premises are open to the public.
10. The CCTV system shall display on any recording, the correct date and time of the recording.
11. An incident book shall be kept and maintained at the premises, which shall be made available to a police officer or an authorized officer upon request.
12. The incident book shall be used to record the date and time of any incident, the name of the staff member and a brief description of the customer concerned.
13. All incidences (*sic*) of the following shall be recorded in the incident book within 24 hours and retained for a minimum of 12 months:
  - Refusal of sale of alcohol to any person who is under 18 years of age, or who appears to be under 25 years of age and fails to produce a proof of age identity
  - Refusal of sale of alcohol to any person who is, or appears to be drunk

- Incidents of violence by any person against another
  - any other criminal incidents
14. Management shall regularly check the incident book to ensure all staff are using it.

### **Public Safety**

1. Installation of appropriate safety equipment
2. Fire exit signs displayed
3. To comply with all current, fire, health and safety laws
4. CCTV working at all times

### **The Prevention of Public Nuisance**

1. Notice displayed asking customers to leave quietly from premises also customers will be told in person to leave quietly and not to disturb the local neighbourhood
2. Strict policy in place to tell all staff not to serve alcohol to drunks at all
3. Appropriate signage will be displayed, in prominent position informing customers they are being recorded on CCTV

### **The Protection of Children from Harm**

A "Challenge 25" scheme that ensures any person attempting to purchase alcohol who appears to be under the age of 25 shall provide documented proof that he or she is over 18 years of age shall operate at the premises.

Proof of age shall only comprise a passport, a photo card driving licence, an industry approved proof of age identity card or a Ministry of Defence identity card or any other form of identification from time to time approved by the Secretary of State.

All reasonable steps shall be taken to verify that any identification documents produced by persons attempting to purchase alcohol are genuine and relate to the person producing them.

A prominent notice shall be displayed at sales point, where the alcohol is, advising customers that the premises operates a "Challenge 25" proof of age scheme.

All staff responsible for selling alcohol shall receive regular training in the main offences under the Licensing Act 2003 including underage sales, sale of alcohol to drunks and breaching conditions of the Premises Licence.

This training shall include providing each staff member with the conditions of the Premises Licence. Retraining shall take place on a regular basis at least every 6 months.

A record of all staff training in the 'Challenge 25 policy, including the dates that each member of staff is trained and retrained for no less than 12 months, shall be maintained and made available within one hour on request by a Police Officer or an authorised officer of the Licensing Authority.

### **Additional Conditions agreed Anti-social Behaviour Team and Environment Team under the Prevention of Public Nuisance objective**

- Emptying of glass bottles into external receptacle to take place only between 09:00 – 20:00
- Last entry into the premises Sunday to Thursday 22:30
- Fridays and Saturdays 23:30
- Hourly noise patrols during Regulated Entertainment
- Record kept of noise patrols

## **4.0 CONSULTATION**

### **4.1 Closing date for representations**

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Part I – Public

Licensing Sub-Committee – 14 March 2022



18 February 2022.

- 4.2 Public Notice published in local newspaper  
26 January 2022 – Uxbridge Gazette.

## 5.0 REPRESENTATIONS

- 5.1 We have received seven representations from interested parties.

<b>Interested Parties</b>	<b>Ground for Representation</b>	<b>Appendix</b>
Cllr Michael Markham	Prevention of Public Nuisance	<b>Appendix 3 (a)</b>
Ms Marian Mills	Prevention of Public Nuisance	<b>Appendix 3 (b)</b>
Ms Tanya Jones	Prevention of Public Nuisance	<b>Appendix 3 (c)</b>
Mr Benjamin Raywood & Dr Emma Flack	Prevention of Crime and Disorder Prevention of Public Nuisance	<b>Appendix 3 (d)</b>
Mrs S Townsend	Prevention of Crime and Disorder Prevention of Public Nuisance	<b>Appendix 3 (e)</b>
Resident 2a Victoria Road	Prevention of Public Nuisance	<b>Appendix 3 (f)</b>
Mrs Mills (Yana Hair Sanctury)	Prevention of Public Nuisance	<b>Appendix 3 (g)</b>

- 5.2 We have received representations from the Licensing Authority and Anti-social Behaviour Team acting as Responsible Authorities under the Act however, the representation submitted by the Anti-social Behaviour Team has now been withdrawn.

<b>Responsible Authorities</b>	<b>Ground for Representation</b>	<b>Appendix</b>
Licensing Authority	Prevention of Crime and Disorder Prevention of Public Nuisance	<b>Appendix 4</b>
Anti-social Behaviour Team (Representation withdrawn)	Prevention of Public Nuisance	<b>Appendix 5</b>

## 6.0 BACKGROUND INFORMATION

- 6.1 Designated Premises Supervisor  
The proposed Designated Premises Supervisor is Mr Bajram Mani who holds a valid Personal Licence granted by the London Borough of Islington.
- 6.2 Map of the area as **Appendix 6**
- 6.3 Photo of Premises. **Appendix 7**
- 6.4 There has been Members' Enquiry for this premises by Cllr Markham on 14 October 2020 relating to

the external area but this was when the premises were under previous management.

## **7.0 OFFICER'S OBSERVATIONS**

7.1 This is an application for a Premises Licence for a Restaurant including the provision regulated entertainment by way of live and recorded music on the ground floor with external seating. The external area shown on the plan is part of the public highway and authorisation would be required from the council for this. A reduction of the terminal hours for Live music and addition of conditions has been agreed with ASBET as detailed above resulted in the withdrawal of an ASBET objection, please see **Appendix 5**.

7.2 The representation received mainly raised the following issues:

### **a) The Prevention of Crime and Disorder**

Concerns have been raised by residents regarding general problems in the area, but the applicant cannot be held responsible for issues that are not within his control and it is hard to qualify that the grant of this application would add to these.

### **b) The Prevention of Public Nuisance**

The representations received from residents raises concerns regarding the potential of public nuisance given the closeness of the premises to the residential dwellings above the premises and ongoing noise issues they are currently being subjected to under the operation of the current licence. It is a reasonable concern that noise levels could be exacerbated by an extension of the hours at the premises. The applicant has not addressed noise escape in the operating schedule and how they would manage this. Noise carries further in the quiet hours of the night and when noise occurs at unsociable hours when the ambient noise is reduced it can cause sleep disruptions and impair the peaceful enjoyment of a resident's property. With regard to parking issues in the vicinity this is not the forum to deal with these issues. Mrs Mills (Yana Hair Sanctuary) makes reference to the number of late night premises in the area, please see paragraph 14.19 of section 182 Home Office guidance below (8.12) stating that need is not a matter for a licensing authority in discharging its licensing functions. Reference is also made to 10(3) and 10(10) and I have included those excerpts for the Licensing Policy for ease of reference. Mrs Mills also poses some questions that I would expect the Applicant to address.

The Licensing Authority has requested consideration be given by the applicant to earlier finishing times and if the applicant cannot demonstrate sufficient noise control measures this is justified. Two conditions have also been requested by the Licensing Authority and these would only be achievable if adequate noise control measures were carried out by way of efficient sound insulation.

## **8.0 Relevant sections of s.182 Guidance**

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

8.1 **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".

8.2 **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".

8.3 **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 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**

- 8.4 **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."
- 8.5 **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."
- 8.6 **At paragraph 10.9** It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.
- 8.7 **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**

- 8.8 **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".

- 8.9 **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**

- 8.10 **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".
- 8.11 **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**

- 8.12 **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."

## **9.0 Relevant sections of Hillingdon's Licensing Policy**

### **Sections referred to in Mrs Mills objection**

- 9.1 **At Paragraph 10(3)** it states that " Where a number of premises may be in close proximity it may be difficult to attribute the disorder to patrons of particular premises, however there is a duty on Premises Licence Holders or Club Management Committees to act responsibly to ensure their own customers do not contribute to crime and disorder whilst in their premises and in the vicinity of their premises".

**At Paragraph 10(10)** it states that 10.10 High risk or poorly managed premises will be subject to a higher frequency of inspections than low risk and well managed premises. Some of these inspections will be unannounced and conducted whilst the premises are in use for the purpose of the licence.

### **Licensing Hours**

- 9.2 **At Paragraph 25.1** 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".

- 9.3 **At Paragraph 25.2** 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".
- 9.4 **At Paragraph 25.3** 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".
- 9.5 **At Paragraph 25.4** 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".

### **Licence Conditions**

- 9.6 **At Paragraph 20.1** 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"
- 9.7 **At Paragraph 20.2** it states that "Conditions attached to licences by the Licensing Authority that have been proposed by the applicant in their operating schedule should be consistent with the steps set out in the operating schedule. This means that the effect of these conditions should be substantially the same as that intended by the terms of the operating schedule".
- 9.8 **At Paragraph 20.3** 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".
- 9.9 **At Paragraph 20.4** 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**

- 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) Licensing 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 licensing 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 licensing 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.