

# Application for the grant of a Premises Licence: Prince of Wales, 1 Harlington Road, Hillingdon, UB8 3HX

<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 grant of a new Premises Licence <b>Appendix 2</b> - Map of the area <b>Appendix 3</b> - Responsible Authority Representations <b>Appendix 4</b> - Ward Councillors and Resident Representations <b>Appendix 5</b> - Resident Support for the Application
<b>Ward(s) affected</b>	Colham & Cowley and Hillingdon West

## 1.0 SUMMARY

To determine an application for a new premises licence submitted by Personal Licence Courses on behalf of Mr Sheraz Sheikh Ahmed. The application is to permit the Sale of Alcohol, Regulated Entertainment, Performance of Dance and Late-Night Refreshment as shown in **Appendix 1**.

## 2.0 RECOMMENDATION

The options open to the Licensing Sub Committee are as follows.

Under section 9.40 of 182 guidance states the following:

Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information

The other is to grant the application with conditions that have been offered by the applicant. The Licensing Sub Committee may wish to add conditions suggested by the Responsible Authorities. Please see below:

- 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

### 3.0 APPLICATION

A new Premises Licence application has been submitted by Personal Licence Courses on behalf of Mr Sheraz Sheikh Ahmed. The premises are situated on Harlington Road, Hillingdon, UB8 3HX.

The application is to authorise the sale of alcohol (on and off the premises) on Sundays to Wednesday from 10:00 to 00:00 hours and on Thursday to Saturdays 10:00 to 01:00 hours. Regulated entertainment indoors (provision of live music, recorded music and dance performances), Sundays to Wednesday from 10:00 to 01:00 hours and Thursday to Saturdays from 10:00 to 01:00 hours. Late night refreshment (indoors) on Sundays to Wednesday from 23:00 to 00:00 hours and on Thursday to Saturdays from 23:00 to 01:00 hours.

Closing times Sunday to Wednesday from 10:00 - 00:30 hours and Thursday to Saturday 10:00 - 01:30 hours **Appendix 1.**

#### 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 Pub Restaurant with a shisha facility to the rear of the premises. The pub restaurant will also offer music and entertainment to its customers. The premises will have later opening times at the end of the week and on the weekends. The premises is situated near to residential dwellings on both the Uxbridge Road and Harlington Road.

A licensed house of multiple occupancy is situated above the premises which the previous DPS Mr Abouzieed Ahmed is the licence holder.

#### 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, Performance of dance)	Indoors	x
Recorded Music	Indoors and outdoors	X
Late Night Refreshment	Indoors and outdoors	X

### 3.4 Proposed hours for licensable activity and opening Hours

	Live Music	Recorded Music	Performance of Dance	Late Night Refreshment	Sale of Alcohol
<b>Monday</b>	10:00 – 00:00	10:00 – 00:00	10:00 – 00:00	23:00 – 00:00	10:00 – 00:00
<b>Tuesday</b>	10:00 – 00:00	10:00 – 00:00	10:00 – 00:00	23:00 – 00:00	10:00 – 00:00
<b>Wednesday</b>	10:00 – 00:00	10:00 – 00:00	10:00 – 00:00	23:00 – 00:00	10:00 – 00:00
<b>Thursday</b>	10:00 – 01:00	10:00 – 01:00	10:00 – 01:00	23:00 – 01:00	10:00 – 01:00
<b>Friday</b>	10:00 – 01:00	10:00 - 01:00	10:00 - 01:00	23:00 – 01:00	10:00 - 01:00
<b>Saturday</b>	10:00 – 01:00	10:00 - 01:00	10:00 - 01:00	23:00 - 01:00	10:00 - 01:00
<b>Sunday</b>	10:00 – 00:00	10:00 - 00:00	10:00 - 00:00	23:00 - 00:00	10:00 - 00:00

	Opening Hours of The Premises
<b>Monday</b>	10:00 - 00:30
<b>Tuesday</b>	10:00 - 00:30
<b>Wednesday</b>	10:00 - 00:30
<b>Thursday</b>	10:00 - 01:30
<b>Friday</b>	10:00 - 01:30
<b>Saturday</b>	10:00 – 01:30
<b>Sunday</b>	10:00 - 01:30

### 3.5 Other licensed premises nearby **Appendix 2**

Premises	Activities Authorised	Opening Hours
The Red Lion Hotel Royal Lane Hillingdon UB8 3QP	Provision of recorded music (indoors only)  Provision of late-night refreshment (indoors only)  Sale by retail of alcohol	Sun – Mon: 08:30 – 01:30
The Vine Inn 121 Hillingdon Hill Uxbridge UB10 0JQ	Performance of live music  Recorded music  Performance of dance and Entertainment of a similar description  Provision of late-night refreshment (indoors)	Sun, Mon, Tues and Wed 09:00 - 01:00  Thursday Fri and Sat 09.00 - 02.00

### 3.6 Operating Schedule and Conditions

The conditions being offered by the applicant can be seen on the application form on section 19 of the application form in **Appendix 1**. The conditions being offered are pretty standard for this type of premises.

## 4.0 **CONSULTATION**

### 4.1 Closing date for representations

17 March 2023

### 4.2 Public Notice published in local newspaper

1 March 2023 – Uxbridge Gazette.

## 5.0 **REPRESENTATIONS**

### 5.1 We have received representations from the Licensing Authority and Anti-social Behaviour Team acting as Responsible Authorities under the Act

Responsible Authorities	Ground for Representation	Appendix
Licensing Authority	Prevention of Crime and Disorder Prevention of a Public Nuisance Prevention of Children from Harm	Appendix 3

Anti-social Behaviour Team	Prevention of a Public Nuisance	Appendix 3
Metropolitan Police	Prevention of Crime and Disorder	Appendix 3

### 5.3 Resident & Ward Councillor Representations

<b>Councillor/Resident</b>	<b>Ground for Representation</b>	<b>Appendix</b>
Cllr Bennett	Prevention of Crime and Disorder Prevention of a Public Nuisance Public Safety Prevention of Children from Harm	Appendix 4
Cllr Reeta Chamdal	Prevention of a Public Nuisance	Appendix 4
Thomas Craig	Prevention of a Public Nuisance Prevention of Children from Harm Prevention of Crime and Disorder	Appendix 4

### 5.4 Representation of Support for the application

Resident	Grounds for Support	Appendix 5
Parampeet Sidhu	Wish the venue to stay open	Appendix 5
Heidi Roberts	Regular Customer	Appendix 5
Saheeb Khalid (The Best Body Team)	Regular Customer	Appendix 5

## **6.0 BACKGROUND INFORMATION**

### **6.1 Designated Premises Supervisor**

The proposed Designated Premises Supervisor is Mr Ahmed Mustafa.

- 6.2 There have been four members' enquiries dating back to 2017. The members' enquiries express the same concerns that have been raised by residents about how the premises operates.

## **7.0 OFFICER'S OBSERVATIONS**

- 7.1 The premises held a licence until 2022 when the Licensing Sub-Committee revoked the premises licence. This was upheld at court following the appellant's appeal. Prior to 2016, the premises licence was held by Fullers Smith & Turner. In 2016 the premises went through a change from being a local pub offering more of a vertical drinking establishment to a food and shisha led premises.

The premises plans to still offer a similar experience to what was there prior to the licence being revoked. Food, drink, and shisha with most customers being positioned outside. The conditions being offered do not combat the issues that led to the licence being revoked in the first instance.

The conditions being offered would be sufficient should the premises change the modus operandi. However, this is not the case, and the operating schedule is not consistent to a business that has been subject to such robust enforcement action.

The remainder of this report will look to look closer at how the four objectives may have an impact on residents should the licence be granted.

No evidence exists from the applicant to state that this is a new business venture that intends to eradicate the errors from the past.

- 7.2 The representations received mainly raised the following issues:

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

The Metropolitan Police have concerns similar issues that plagued the premises for several years. These issues included underage sales and drinking, serious violent disorder, and rowdy behaviour.

[REDACTED]

[REDACTED]

The Licensing Authority reflect similar concerns that the Metropolitan Police have raised in their representation. What led to the review and revocation of the licence previously was failure to uphold the Prevention of Crime and Disorder objective.

Cllr Bennett has concerns that the management of the premises is still the same as previously. Cllr Bennett feels that they will not be able to uphold the Prevention of Crime and Disorder objective.

Cllr Reeta Chamdal echoes and supports Cllr Bennett's representation.

Resident Mr Craig also expresses concerns that it will be more of the same issues should the licence be granted.

**b) The Prevention of Public Nuisance**

Cllr Bennett raises the issue over nuisance parking previously. Cllr Bennett has concerns that the matter has not been addressed in the application.

The bulk of the concerns over The Prevention of Public Nuisance have been raised by the Anti-Social Behaviour Team for Hillingdon Council. Patrons positioned outside to late into the evening smoking shisha and drinking alcohol is most likely going to prompt complaints from residents.

Mr Craig has expressed concerns over an increase of noise from the premises should the licence be granted.

**c) The Protection of Children from Harm**

The representations received have highlighted the history of the underage sales which contributed to the issues that occurred in 2021. This resulted in the licence being revoked. Representations received highlight that there has been no significant change in the management which would give assurances of compliance with the licensing objectives.

**d) Public Safety**

Cllr Bennett has highlighted potential problems from patrons of the premises parking irresponsibly along Harlington Road and the surrounding areas.

**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**

### **Licensing Hours**

- 9.1 **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".
- 9.2 **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".

- 9.3 **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".
- 9.4 **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**

- 9.5 **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"
- 9.6 **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".
- 9.7 **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".
- 9.8 **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.