

APPLICATION FOR THE GRANT OF A PREMISES LICENCE: FRIENDS JUNCTION, 1262 UXBRIDGE ROAD, HAYES, UB4 8JF

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| Committee | Licensing Sub-Committee |
| Officer Contact | Jhini Mukherjee, Licensing Officer |
| Papers with report | Appendix 1 - Application form and plan Appendix 2 - Representation from Councillor Darran Davies Appendix 3 - Response from Licensing Authority Appendix 4 - Response from Fire Authority Appendix 5 - Response from Metropolitan Police Appendix 6 - Response from Food Health & Safety Appendix 7 - Map of the area Appendix 8 - Photos of the Premises |
| Ward | Charville |

1.0 SUMMARY

To consider an application for the grant of a new premises licence in respect of Friends Junction, 1262 Uxbridge Road, Hayes, UB4 8JF. The application form and plan are appended as **Appendix 1**. There is one representation for this application from Councillor Darran Davies. The initial representation from the Licensing Authority was withdrawn after the applicant agreed to the additional recommended conditions. Responses have also been received from the Metropolitan Police, the Fire Authority and the Food Health and Safety, where they have confirmed that they have no objections to this new premises licence application.

2.0 RECOMMENDATION

That the Licensing Sub-Committee consider an application for the grant of a new premises licence in respect of Friends Junction, 1262 Uxbridge Road, Hayes, UB4 8JF.

3.0 APPLICATION

3.1 Licensable Activities

A new premises licence application has been made by Mr Manmohan Singh Kapoor. The application proposes for the sale of alcohol, live music, recorded music and performance of dance from Sunday to Thursday from 11:00 hours to 23:00 hours, and on Friday and Saturday from 11:00 hours to 00:00 hours. In addition, Mr. Kapoor has applied for late night refreshment until 00:00 hours on Friday and Saturday.

Opening hours of the premises are from Sunday to Thursday from 09.00 hours to 23.00 hours and Friday and Saturday from 09.00 hours to 00.00 hours.

3.2 Opening Hours and proposed hours for licensable activity

| | Opening Hours of The Premises |
|------------------|-------------------------------|
| Monday | 09:00 - 23:00 |
| Tuesday | 09:00 - 23:00 |
| Wednesday | 09:00 - 23:00 |
| Thursday | 09:00 - 23:00 |
| Friday | 09:00 - 00:00 |
| Saturday | 09:00 - 00:00 |
| Sunday | 09:00 - 23:00 |

| Proposed hours for licensable activities | Live Music | | Recorded Music | | Performance of Dance | | Late Night Refreshment | Sale of Alcohol | |
|--|----------------|---|----------------|---|----------------------|---|------------------------|-----------------|----------------|
| Monday | 11:00 23.00 | - | 11:00 23.00 | - | 11:00 23.00 | - | X | 11:00 23.00 | - |
| Tuesday | 11:00 23.00 | - | 11:00 23.00 | - | 11:00 23.00 | - | X | 11:00 23.00 | - |
| Wednesday | 11:00 23.00 | - | 11:00 23.00 | - | 11:00 23.00 | - | X | 11:00 23.00 | - |
| Thursday | 11:00 23.00 | - | 11:00 23.00 | - | 11:00 23.00 | - | X | 11:00 23.00 | - |
| Friday | 11:00 00:00 | - | 11:00 00:00 | - | 11:00 00:00 | - | 23.00 00:00 | - | 11:00 00:00 |
| Saturday | 11:00 00:00 | - | 11:00 00:00 | - | 11:00 00:00 | - | 23.00 00:00 | - | 11:00 00:00 |
| Sunday | 11:00 23.00 | - | 11:00 23.00 | - | 11:00 23.00 | - | X | 11:00 23.00 | - |

3.3 Other licensed premises nearby

| Premises | Activities Authorised | Opening Hours |
|---|---|---|
| The Wishing Well, 1250-1256 Uxbridge Road, UB4 8JF | Provision of regulated entertainment for indoor sporting events, live music, recorded music, performances of dance and anything of a similar description (indoors only). Provision of late night refreshment (indoors only) Sale by retail of alcohol | Monday to Thursday, from 10.00 hours until 00.30 hours the following day Friday and Saturday, from 10.00 hours until 01.30 hours the following day Sunday, from 12.00 hours until 00.30 hours the following day |
| Costcut Express, 1278 Uxbridge Road UB4 8JF | Sale by retail of alcohol (off the premises) | Monday to Saturday, from 08.00 hours to 23.00 hours Sunday - 10.00 hours to 22.30 hours Good Friday, from 08.00 hours to 22.30 hours Christmas Day from 12.00 hours to 15.00 hours and 19.00 hours to 22.30 hours |
| Iceland Foods, 1314 Uxbridge Road, UB4 8JH | Sale by retail of alcohol (off the premises) | Monday to Saturday from 08.00 hours to 23.00 hours Sunday from 10.00 hours to 22.30 hours Good Friday from 08.00 hours to 22.30 hours Christmas Day from 12.00 hours to 15.00 hours and 19.00 hours to 22.30 hours |

3.4 Type of Application Applied For

New Premises Licence application pursuant to s.17 Licensing Act 2003.

3.5 Description of The Premises

The premises is a shopping unit in a parade of shops with residential flats above it. The applicant proposes to use this as a North Indian themed restaurant and bar.

3.6 Operating Schedule and Conditions

Section 18 of the Operating Schedule on the application form demonstrates the steps the applicant proposes to take to promote the Licensing Objectives. These can be viewed in **Appendix 1**.

3.7 Conditions agreed by the Applicant with the Licensing Authority

Prevention of Crime & Disorder

1. An incident log shall be kept at the premises and made available on request to an authorised officer of the Council or the Police. It will record the following: (a) all crimes reported to the venue (b) any complaints received concerning crime and disorder (c) any incidents of disorder (d) any faults in the CTV system, (e) any refusal of the sale of alcohol (f) any visit by a relevant authority or emergency service.
2. Alcohol must be by waiter/waitress service.

Prevention of Public Nuisance

3. No noise generated on the premises, or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
4. A noise limiter must be fitted to the musical amplification system to ensure that no noise nuisance is caused to residents or businesses.
5. A written dispersal policy shall be kept at the premises and the licence holder shall ensure that all staff members are trained and briefed in implementing this policy.

Public Safety

6. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.

4.0 CONSULTATION

4.1 Closing date for representations

Wednesday 07 June 2023.

4.2 Public Notice published in local newspaper

Wednesday 17 May 2023, in the Uxbridge Gazette

5.0 REPRESENTATIONS

5.1 **One** representation was received from an Interested Party:

| Interested Parties | Grounds for Representation | Appendix |
|---|--|----------|
| Councillor Darran Davies (Charville Ward Councillor) | Prevention of Public Nuisance Public safety | 2 |

The Licensing Authority withdrew their representation after the applicant was in accord with accepting the additional recommended conditions. The response from the Licensing Authority is appended as **Appendix 3**.

The responses received from the other Responsible Authorities under the Act whereby they have confirmed that they have no objections to this new premises licence application have been appended as **Appendix 4** (Response from Fire Authority), **Appendix 5** (Response from Metropolitan Police) and **Appendix 6** (Response from Food, Health and Safety) respectively.

5.2 No Members' Enquiries have been received by the Licensing Service for this premises.

6.0 BACKGROUND INFORMATION

6.1 Designated Premises Supervisor

The proposed Designated Premises Supervisor is Mr Manmohan Singh Kapoor, who holds a Personal Licence issued by the London Borough of Hounslow.

A map of the area and photos of the premises and where the parade is located are attached as **Appendices 7** and **8**.

7.0 OFFICER'S OBSERVATIONS

7.1 The representation received from Councillor Davies raises concerns regarding Public Safety and the Prevention of Public Nuisance.

Public Safety - The Fire Authorities are one of the advisors on matters relating to public safety in licensed premises. They are designated as a 'Responsible Authority' under the Act, and they are consulted for various applications under the Act including all the new premises licence applications to promote public safety. We have received a response from them where they have confirmed that they do not object to this application. Additionally, the applicant has agreed to include further conditions, as recommended by the Licensing Authority, pertaining to the promotion of this licensing objective. If the applicant adheres to and implements the measures as presented here, then it is most likely to mitigate the concerns raised by Councillor Davies and help in upholding the public safety at the premises.

The Prevention of Public Nuisance – The Licensing Authority has also recommended conditions to control the possibility of any noise nuisance emanating from the premises which the applicant has agreed to include on their licence. It can be expected that the premises will find these to be the best practicable means to control noise and to minimise its impact on residents.

As for the opening hours of the premises, there is no fixed restriction on terminal hours anywhere in the Borough. This is in accordance with the Guidance where the aim is to reduce

the potential for concentrations and achieve a slower dispersal of people from licensed premises through flexible opening times. The Council's Licensing Policy also mirrors the Guidance and states that arbitrary restrictions which would undermine the principle of flexibility must be avoided. The four licensing objectives will always be paramount, and each case will be considered on their individual merit. The licenced premises next door, The Wishing Well, has later hours which can be viewed at paragraph 3.3 above and therefore the ones proposed by the applicant are not considered as excessive for the area. The applicant has detailed in their Operating Schedule the 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. They have also cooperated with the Licensing Authority and agreed to include stricter conditions on their licence, if granted, to address the concerns of disturbance and nuisance. It should also be noted that the Council's Anti-Social Behaviour Team have not objected to this application.

8.0 RELEVANT SECTIONS OF S.182 GUIDANCE

8.1 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".

8.2 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, either physical or digital (e.g. copy of any document checked or a clear copy of the online 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".

8.3 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 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.

8.4 Licensing Hours

At paragraph 14.51 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 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.

8.5 The Need for Licensed Premises

At paragraph 14.19 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 licensing policy.

9.0 RELEVANT SECTIONS OF HILLINGDON'S LICENSING POLICY

9.1 Licensing Objectives – The Prevention of Crime and Disorder

At paragraph 10.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment, can be a source of crime and disorder. The Licensing Authority will expect operating schedules to satisfactorily address these issues from the design of the premises through to the daily operation of the business. Applicants are recommended to seek advice from the Police Licensing Officer and Licensing Authority Officers prior to making any application as early advice can alleviate representations being made once an application is submitted. Full contact details for both are contained within the Responsible Authorities contact in appendix B.

At paragraph 10.3 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 10.6 Applications referred to the Licensing Sub-Committee where relevant representations have been received will be determined on the individual merit of each case. The Licensing Sub-Committee has the power to impose specific conditions when considered appropriate in respect of the Crime and Disorder objective.

9.2 Licensing Objectives – Public Safety

At paragraph 11.5 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 Public Safety objective.

9.3 Licensing Objectives – The Prevention of Public Nuisance

At paragraph 12.1 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. This may also include patrons outside a premises and the dispersal of customers. Due regard will be given to the impact these may have and the Licensing Authority will expect operating schedules to satisfactorily address these issues.

9.4 Licensing Hours

At paragraph 25.1 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 25.2 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 25.3 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 25.4 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 25.5 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.

9.5 Licence Conditions

At paragraph 20.1 Conditions on premises licences and club certificates are determined by:

- The measures put forward on the Operating Schedule
- Mandatory conditions within the Act (current list included as Appendix G)

- Measures decided at a hearing by the Licensing Sub Committee

At paragraph 20.2 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.

At paragraph 20.3 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. Conditions imposed by the Licensing Authority shall be appropriate, reasonable, and proportionate and should be determined on a case-by-case basis.

At paragraph 20.4 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) 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.