

## Application for the grant of a Premises Licence: SAKI, Unit 2, 8 Victoria Road, Ruislip, HA4 0AA

|                           |   |
|---------------------------|---|
| <b>Committee</b>          | Licensing Sub-Committee   |
| <b>Officer Contact</b>    | Lois King - 01895 277067  |
| <b>Papers with report</b> | <b>Appendix 1</b> - Application form and plan<br><b>Appendix 2</b> - Representations from Responsible Authorities (2A-C)<br><b>Appendix 3</b> - Representations from Interested Parties (3A-G)<br><b>Appendix 4</b> - Map of the area<br><b>Appendix 5</b> - Photos of the premises |
| <b>Ward name</b>          | <b>Ruislip Manor</b>  |

### 1.0 SUMMARY

To consider an application for the grant of a new premises licence in respect of SAKI, Unit 2, 8 Victoria Road, Ruislip, HA4 0AA. The application form and plan are appended as **Appendix 1**. The application has attracted three representations from the Responsible Authorities and seven representations from interested parties objecting to the application.

### 2.0 RECOMMENDATION

That the Licensing Sub-Committee consider the application for the grant of a new premises licence in respect of SAKI, Unit 2, 8 Victoria Road, Ruislip, HA4 0AA.

### 3.0 APPLICATION

#### 3.1 Licensable Activities

A new premises licence application has been made by Charlotte Elizabeth Atkinson for the licensable activities as outlined in the table below:

#### 3.2 Proposed Hours for Licensable Activities

|                  | <b>Live Music (indoors)</b> | <b>Recorded Music (indoors)</b> | <b>Performances of Dance (indoors)</b> | <b>Late Night Refreshment (indoors)</b> | <b>Sale of Alcohol (on sales only)</b> |
|------------------|-----------------------------|---------------------------------|--|---|--|
| <b>Monday</b>    | 11:00 – 00:00               | 11:00 – 00:00                   | 11:00 – 00:00                          | 23:00 – 00:00                           | 11:00 – 00:00                          |
| <b>Tuesday</b>   | 11:00 – 00:00               | 11:00 – 00:00                   | 11:00 – 00:00                          | 23:00 – 00:00                           | 11:00 – 00:00                          |
| <b>Wednesday</b> | 11:00 – 00:00               | 11:00 – 00:00                   | 11:00 – 00:00                          | 23:00 – 00:00                           | 11:00 – 00:00                          |
| <b>Thursday</b>  | 11:00 – 00:00               | 11:00 – 00:00                   | 11:00 – 00:00                          | 23:00 – 00:00                           | 11:00 – 00:00                          |
| <b>Friday</b>    | 11:00 – 01:00               | 11:00 – 01:00                   | 11:00 – 01:00                          | 23:00 – 01:00                           | 11:00 – 01:00                          |

|                 |               |               |               |               |               |
|-----------------|---------------|---------------|---------------|---------------|---------------|
|                 |               |               |               |               |               |
| <b>Saturday</b> | 11:00 – 01:00 | 11:00 – 01:00 | 11:00 – 01:00 | 23:00 – 01:00 | 11:00 – 01:00 |
| <b>Sunday</b>   | 11:00 – 00:00 | 11:00 – 00:00 | 11:00 – 00:00 | 23:00 – 00:00 | 11:00 – 00:00 |

The opening hours of the premises are Sunday to Thursday 11:00 – 00:30 hours and Friday to Saturday 11:00 – 01:30 hours.

### 3.3 Type of Application Applied For

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

### 3.4 Description of The Premises

The premises is located in a parade which includes JJ Moons and TEN Restaurant. There are other commercial premises in this parade and on the opposite side of the road. There are residential properties above the premises. The units were previously used as a tanning salon and an estate agent. Ruislip Manor underground station is located across the road.

### 3.5 Other Licensed Premises nearby (shown on a map appended as **Appendix 4**)

| <b>Premises</b> | <b>Address</b>                           | <b>Licensable Activities and Hours</b>   |
|-----------------|--|--|
| JJ Moons        | 12 Victoria Road, Ruislip Manor, HA4 0AA | <p><b>The sale by retail of alcohol (on &amp; off sales)</b></p> <p><b>The provision of late-night refreshment</b></p> <p><b>The provision of recorded music</b></p> <p>On Sunday, Monday, Tuesday, Wednesday &amp; Thursday, except Christmas Eve, New Years Eve &amp; Boxing Day, between 09:00 and 00:30 hrs</p> <p>On Friday &amp; Saturday except Christmas Eve, New Years Eve &amp; Boxing Day, between 09:00 and 01:00 hrs</p> <p>On Christmas Eve &amp; Boxing Day between 09:00 and 02:00 hrs</p> <p>On New Years Eve from 09:00 until 09:00 hours on New Years Day</p> |

|     |  |  |
|-----|--|--|
|     |  | <p>On the days stated below, an additional hour following the times detailed above:-</p> <p>Burns Night – 25 January<br/> Australia Day – 26 January<br/> St David’s Day – 1 March<br/> St Patrick’s Day – 17 March<br/> St George’s Day – 23 April<br/> St Andrew’s Day – 30 November</p> <p>On the days stated below, an additional 30 minutes following the times detailed above:-<br/> Thursdays preceding Easter<br/> Sundays preceding a Bank Holiday</p> <p>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.</p> <p>The provision of recorded music is not time restricted</p> |
| TEN | 10 Victoria Road, Ruislip Manor, HA4 0AA | <p><b>Provision of regulated entertainment:</b><br/> <b>provision of live music</b><br/> Friday and Saturday 23.00 to 23.30<br/> <b>playing recorded music</b><br/> Every day 23.00 to 23.30</p> <p><b>The sale by retail of alcohol (on &amp; off sales)</b><br/> Every day 12.00 hrs to 23.30 hrs<br/> <b>The provision of late-night refreshment:</b><br/> Every day 23.00 hrs to 23.30 hrs</p>   |

|                                  |  |   |
|----------------------------------|--|---|
| Real Love Lounge                 | 108-110 Pembroke Road,<br>Ruislip Manor, HA4 8NW | <b>Sale by retail of alcohol (on &amp; off sales)</b><br>From 12.00 hrs until 23.00 hrs everyday  |
| Manor Kebabs                     | 72 Park Way, Ruislip Manor,<br>HA4 8NR           | <b>Provision of Late-Night Refreshment</b><br>Sunday to Wednesday from 23:00 hrs to 00:00 hrs<br>Thursday from 23:00 to 01:00<br>Friday and Saturday and New Years Eve from 23:00 hrs to 02:00 hrs the following day  |
| The Raj Doot Tandoori Restaurant | 59 Windmill Hill, Ruislip Manor, HA4 8PU         | <b>The provision of regulated entertainment (indoors only) except films</b><br>From 11.00 hrs until 00.30 hrs the following day, everyday<br><br><b>The provision of Films (indoors)</b><br>Films 11.00 hrs to 0100 hrs<br><br><b>The sale of alcohol by retail (on &amp; off sales)</b><br>From 11.00 hrs until 01.00 hrs the following day, everyday<br><br><b>Late night refreshment (indoors only)</b><br>From 23.00 until 01.00 hrs the following day, everyday on and off |
| Summer China                     | 44 Victoria Road, Ruislip Manor, HA4 0AG         | <b>Provision of late-night refreshment</b><br>From 23:00 hrs until 24:00 hrs the following day  |
| Manor News & Sweets              | 45 Victoria Road, Ruislip Manor, HA4 9AB         | <b>Sale by retail of alcohol</b><br>Monday to Friday 08:00 hrs until 20:00 hrs<br>Saturday to Sunday 07:00 hrs until 20:00 hrs  |
| Oscar Off Licence                | 43 Victoria Road, Ruislip Manor, HA4 9AB         | <b>Sale by retail of alcohol</b><br>Monday to Saturday 08:00 hrs to 23:00 hrs<br>Sunday 10:00 hrs to 22:30 hrs<br>Good Friday 08:00 hrs to 22:30 hrs  |

|                               |   |  |
|-------------------------------|---|--|
|                               |   | Christmas Day 12:00 hrs to 15:00 hrs & 19:00 hrs to 22:30 hrs  |
| Budgens                       | 47-49 Victoria Road, Ruislip Manor, HA4 9AB | <b>Sale of alcohol by retail</b><br>Monday to Sunday 07:00 to 23:00 hrs  |
| Costa Verde Café & Restaurant | 33 Victoria Road, Ruislip Manor, HA4 9AB    | <b>Late Night Refreshment</b><br>Sunday between 23:00 and 24:00<br>Monday to Thursday 23:00 to 01:00 the following day<br>Friday and Saturday 23:00 to 02:00 the following day<br><br>For occasional private parties from 23:00 to 03:00 the following day<br><br><b>The sale of alcohol by retail (on sales only)</b><br>Sunday 12:00 to 24:00<br>Monday to Thursday 12:00 to 01:00 the following day<br>Friday and Saturday 12:00 to 02:00 the following day<br><br>For occasional private parties from 12:00 to 03:00 the following day   |
| Hennessys                     | 36 Victoria Road, Ruislip Manor, HA4 0AG    | <b>Sale of alcohol by retail (on &amp; off sales) and regulated entertainment: -</b><br>Monday to Wednesday from 10.00 hrs to 00.30 hrs the following day<br>Thursday from 10.00 hrs to 01.00 hrs the following day<br>Friday and Saturday from 10.00 hrs to 02.00 hrs the following day<br>Sunday from 10.00 hrs to 01.00 hrs the following day<br><br><b>Provision of late-night refreshment</b><br>Monday to Wednesday from 23.00 hrs to 00.30 hrs the following day<br>Thursday from 23.00 hrs to 01.00 hrs the following day<br>Friday and Saturday from 23.00 hrs to 02.00 hrs the following day<br>Sunday from 23.00 hrs to 01.00 hrs the following day |

|                        |   |   |
|------------------------|---|---|
|                        |   | <p>An additional hour to those detailed above on the commencement of British Summer-time.</p> <p><b>An additional hour following those detailed above on:-</b><br/> New Years Day, Burns Night, Valentines Night, St David's Day, 14<sup>th</sup> March (Commonwealth Day), St George's Day, Easter Sunday, Easter Monday, May Day Bank Holiday Monday, FA Cup final day, Spring Bank Holiday Monday, August Bank Holiday Monday, Halloween, Guy Fawkes Night, St Andrew's Day</p> <p><b>An additional 2 hours following those detailed above on:-</b><br/> St Patrick's Day, May Day Bank Holiday Sunday, Spring Bank Holiday Sunday, August Bank Holiday Sunday, Christmas Eve, Boxing Day, 28 December, 29 December, 30 December</p> <p>Additional hours to those detailed above for international sporting events subject to 14 days' notice to the Metropolitan Police and the Licensing Authority and a consent from the Metropolitan Police.</p> <p><b>The sale of alcohol only</b><br/> From 10.00 hours on New Year's Eve to 10.00 hours on New Year's Day</p> |
| <p>Pizza Hut</p>       | <p>30 Victoria Road, Ruislip Manor, HA4 0AB</p> | <p><b>Provision of Late-Night Refreshment</b><br/> From 23:00 hrs to 00:30 hrs the following day, every day</p>   |
| <p>Mamma Mia Pizza</p> | <p>20 Victoria Road, Ruislip Manor, HA4 0AB</p> | <p><b>Provision of Late-Night Refreshment</b><br/> Friday and Saturday - 23:00hrs – 03:00hrs</p>  |

|             |  |  |
|-------------|--|--|
|             |  | Sunday to Thursday -<br>23:00hrs - 02:00hrs  |
| Tam Chicken | 15 Victoria Road, Ruislip Manor, HA4 9AA | <b>Provision of Late-Night Refreshment</b><br>Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday 23:00 hrs to 03:00 hrs the following day<br>New Years Eve 23:00 hours to 05:00 hours the following day |

### 3.6 Operating Schedule and Conditions

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

## 4.0 CONSULTATION

### 4.1 Closing date for representations

1<sup>st</sup> November 2023.

### 4.2 Public Notice published in local newspaper

18<sup>th</sup> October 2023 edition of The Gazette.

## 5.0 REPRESENTATIONS

5.1 We have received **three** representations from Responsible Authorities

| Responsible Authority         | Ground for Representation  | Appendix  |
|-------------------------------|--|-----------|
| Metropolitan Police Licensing | Prevention of Crime & Disorder<br>Prevention of Public Nuisance                  | <b>2A</b> |
| Licensing Authority           | Prevention of Crime & Disorder<br>Prevention of Public Nuisance<br>Public Safety | <b>2B</b> |
| Environmental Protection Team | Prevention of Public Nuisance<br>Prevention of Crime & Disorder                  | <b>2C</b> |

5.2 We have received **seven** representations from Interested Parties:

| Interested Parties            | Ground for Representation   | Appendix  |
|-------------------------------|---|-----------|
| Cllr Douglas Mills            | Prevention of Public Nuisance                                     | <b>3A</b> |
| Conor Donegan                 | Prevention of Public Nuisance                                     | <b>3B</b> |
| Marian Mills                  | Prevention of Public Nuisance                                     | <b>3C</b> |
| Samir Yanina                  | Prevention of Public Nuisance<br>Protection of Children from Harm | <b>3D</b> |
| Emma Flack & Benjamin Raywood | Prevention of Public Nuisance<br>Prevention of Crime & Disorder   | <b>3E</b> |

|  |  |           |
|--|--|-----------|
| Nishma Parmar, Aarti Babber, Suman Bhadresa & Kusum Bhadresa | Prevention of Public Nuisance                  | <b>3F</b> |
| Akwesi Penemo  | Prevention of Public Nuisance<br>Public Safety | <b>3G</b> |

## 6.0 BACKGROUND INFORMATION

### 6.1 Designated Premises Supervisor

The proposed Designated Premises Supervisor is Charlotte Elizabeth Atkinson, who holds a Personal Licence issued by the London Borough of Hillingdon.

6.2 A map of the area and photos of the premises can be found in **Appendix 4 and 5** respectively.

## 7.0 OFFICER'S OBSERVATIONS

7.1 This is an application for a new Premises Licence for a Pan Asian restaurant and bar which seeks authorisation for licensable activities from 11:00 – 00:00 hours Sunday to Thursday and from 11:00 – 01:00 hours on Friday and Saturday. The premises is situated in a parade alongside JJ Moons and TEN Restaurant with a number of commercial/retail premises nearby and Ruislip Manor underground station across the road. There is residential accommodation above the premises so the potential for public nuisance is a consideration. The nature of the business is also unclear i.e. is it restaurant or a vertical drinking premises.

### 7.2 History

| Date       | Incident  | Details  | Action   |
|------------|---|--|--|
| 25/07/2022 | Member's Enquiry received   | Loud music from 20:00 hrs on 23/07 until 06:00 hrs on 24/07/22   | 26/07/22 licensing officer visited premises but no access. Letter sent on 28/07/22. No response.   |
| 22/10/2022 | Complaint to noise team   | Loud music reported at 22:11 hrs   | Officers attended 22:50 hrs. Loud music not witnessed. Called out 45 mins later. Returned to site & witnessed loud music – DJ. Officers spoke to owner & music turned off.   |
| Nov 2022   | Responsible Authorities (Police, ASBET & Licensing Authority) requested a meeting at SAKI with Miss Atkinson at 11:00 hrs on 07/12/22 |  | Letter sent to business address & to home address.<br><br>No response to appointment letters. Rang mobile tel no multiple times – no answer.<br><br>Attended SAKI on 07/12/22 – Miss Atkinson was not there. Rang mobile – no answer. Rang licensing agent – they could not contact her either.<br><br>Follow up email sent – no response. |
| 25/11/2022 | Late TEN submitted  | Private birthday party on 03/12/22 from 18:00 – 00:00. Sale of alcohol, regulated entertainment & late-night refreshment | TEN issued with covering letter advising of noise complaints from the venue.   |
| 24/07/2023 | Enquiry received about submitting a Late TEN  | Party on 29/07/23 until 00:00 hrs  | Advised out of time for a Late TEN   |



|            |  |   |  |
|------------|--|---|--|
| 26/07/2023 | Late TEN submitted   | Private party on 05/08/23 18:00 – 00:00. Sale of alcohol, regulated entertainment & late-night refreshment                | TEN issued   |
| 10/08/2023 | Late TEN submitted   | Private party on 19/08/23 18:00 – 00:00. Sale of alcohol, regulated entertainment & late-night refreshment                | TEN issued   |
| 19/08/2023 | Complaint to noise team  | Loud music  | Officers visited site – noise nuisance witnessed. SAKI rear fire exit doors blocked, 2 males appeared to be smoking what smelt like cannabis & intoxicated female seen. 15-20 patrons outside on the street. No doorman. Spoke to owner about noise – music to be turned down. Other matters witnessed were discussed. |
| 19/09/2023 | TEN submitted  | Private brunch all day party on 30/09/23 11:00 – 00:00. Sale of alcohol, regulated entertainment & late-night refreshment | Objection from Police Licensing. Counter notice served   |
| 26/10/2023 | Responsible Authority meeting with Miss Atkinson at Ruislip Police station |   |  |

7.3 The representations received mainly raise the following issues:

**a) The prevention of crime and disorder**

Police Licensing have raised concerns about the problems that are already being encountered at the premises e.g. the levels of intoxication of patrons, people allegedly smoking cannabis and the premises causing a statutory noise nuisance with loud music.

The Licensing Authority has raised concerns about nature of the premises as this will have an impact on the proposal to have a minimum of one door supervisor present on a Friday and Saturday night.

An Interested Party raises concerns about the potential increase in problems already being experienced in the area in terms of antisocial behaviour, fighting, underage drinking and drug use.

**b) The prevention of public nuisance**

The majority of the concerns raised are about the potential for noise nuisance e.g. from music and performances of dance until 01:00 hours and from patrons congregating on the street outside

given that there are residential properties above the premises and the lack of adequate sound proofing.

Incidents that have already occurred at the premises, namely the events of Sunday 24<sup>th</sup> July 2022 and Saturday 19<sup>th</sup> August 2023, have been cited. In addition, one resident has included reference numbers for noise nuisance complaints that have already been logged with the Council. These concerns are supported by the Environmental Protection Team. As a result of such experiences, the Interested Parties are not confident that the premises will be operated in a responsible and considerate manner.

The operating hours are also a cause for concern with activities proposed to continue into the early hours of the mornings thus disrupting residents' ability to enjoy their homes and disrupting their ability to sleep. The Licensing Authority has echoed concerns about the proposed finishing times for Regulated Entertainment. This should be given due consideration as although the applicant has detailed in their Operating Schedule the measures they will take to ensure that they do not cause nuisance or disturbance to their neighbours, the later the terminal hour applied for, the greater will be the need to address the issues of disturbance and nuisance.

### **c) The protection of children from harm**

An Interested Party has expressed concerns for the well being of their children should the proposed activities disturb their sleep and affect their schooling.

### **d) Public Safety**

An Interested Party has raised concerns about the fact that machinery had been placed right outside fire exits and stairwells during the refurbishment of the premises. Maintaining an unobstructed means of escape from the premises is also a concern for the Licensing Authority who have requested a condition in relation to this very matter.

Concerns have also been raised about the safety of intoxicated patrons and the knock-on effect for the safety of members of the public.

In relation to comments regarding setting a "dangerous precedent" for other business nearby to apply to extend their licences by allowing SAKI to operate later, it should be remembered that each application made under the Licensing Act 2003 must be assessed on its individual merits. The London Borough of Hillingdon also does not have a Cumulative Impact Policy in force, and matters pertaining to perceptions of 'need' are for the market and Planning to consider, not Licensing.

It should also be noted that 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 be always paramount, and each case will be considered on their individual merit.

## **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 10.9** It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

**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 10.14** it states, "Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested."

### **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.

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

## **9.4 Licensing Objectives – The Protection of Children from Harm**

**At paragraph 13.7** 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 Protection of Children from Harm objective.

## **9.5 Representations**

**At paragraph 17.2** Representations can be made to the Council, as Licensing Authority, by a 'Responsible Authority' or by 'Interested Parties' which include individuals such as residents or bodies such as a resident's association, trade associations and other businesses operating. Representations can be made concerning:

- Applications for new premises licences or club premises certificates
- Applications to vary premises licences or club premises certificates
- Personal licence applications on criminal grounds (only by the Police)

**At paragraph 17.9** The Licensing Act 2003 also permits Elected Members to make representations on their own behalf as well as on behalf of their constituents. Members of the public who are making representations may also request that their Ward Councillor speaks on their behalf at public hearings to determine applications.

**At paragraph 17.11** Written representations include letters and emails. Representations received after the end of the public consultation period cannot legally be accepted and will not be considered by the Licensing Authority.

**At paragraph 17.12** Representations must contain;

- a) The name, full address & post code, of the person making them;
- b) The reasons for their representation;

c) Which of the four Licensing Objectives the representation relates to i.e. Crime and disorder; Public Nuisance; Public safety; Protection of children from harm.

**At paragraph 17.14** Representations based on 'Need' for licensed premises, concerns the commercial demand for another pub, restaurant, off licence or hotel. This is not a matter for the licensing authority in discharging its licensing functions. 'Need' is a matter for planning committees and for the market. Representations made on the basis of need are likely to be rejected.

**At paragraph 17.15** All valid representations will form part of a committee report that will become a public document. It will be given to the applicant, their agent, responsible authorities, other persons making representations and any other party requesting a copy as well as the Licensing Sub-committee 10 working days prior to the hearing. Anonymous representations will not be accepted.

## **9.6 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.

## **9.7 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) 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 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.