

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

<b>Committee</b>	Licensing Sub-Committee
<b>Officer Contact</b>	Licensing Officer – Lois King - 01895 277067
<b>Papers with report</b>	<b>Appendix 1</b> - Application to vary a Premises Licence <b>Appendix 2</b> - Operating schedule to accompany the application <b>Appendix 3</b> - Current premises licence <b>Appendix 4</b> - Representations from Responsible Authorities <b>Appendix 5</b> - Representations from Interested Parties <b>Appendix 6</b> - Representations supporting the application <b>Appendix 7</b> - Photos and plans
<b>Ward name</b>	<b>Hillingdon East/ Colham &amp; Cowley</b>

## 1.0 SUMMARY

- 1.1 To consider an application to vary the current premises licence for the Prince of Wales, 1 Harlington Road, Uxbridge, UB8 3HX. The application was submitted by NTAD Consultants Limited on behalf of Mr Sheikh Sheraz Ahmed, Director of Game Measure Limited and is attached as **Appendix 1**. An operating schedule to accompany the application form is attached as **Appendix 2**.
- 1.2 The variation application seeks to extend the authorisation for the sale of alcohol on and off the premises until 00:30 hours Sunday – Wednesday and until 01:30 hours Thursday – Saturday. The premises licence currently authorises this activity until 23:00 hours Sunday - Thursday and until 00:00 hours Friday – Saturday.
- 1.3 The variation application seeks to extend the authorisation for recorded music until 00:30 hours Sunday - Wednesday and until 01:30 hours Thursday – Saturday. The premises licence currently authorises this activity until 23:00 hours Sunday – Thursday with music outside only until 22:00 hours on these days and until 00:00 hours Friday – Saturday with music outside only until 23:00 hours on these days.
- 1.4 The variation application seeks to extend the authorisation for regulated entertainment (to include the performance of dance e.g. a belly dancer) until 00:30 hours Sunday – Wednesday and until 23:00 in the external area of the premises on these days and until 01:30 hours Thursday – Saturday and until 23:00 hours in the external area of the premises on these days. Live music and the performance of dance are authorised indoors only on the current licence until 23:00 hours Sunday – Thursday and until 00:00 hours Friday – Saturday.
- 1.5 The variation application seeks to extend the authorisation for late night refreshment until 00:30 hours Sunday – Wednesday and 01:30 hours Thursday - Saturday. The premises licence currently authorises this activity Friday – Saturday until 00:00 hours.
- 1.6 The opening hours will be Sunday – Wednesday from 10:00 hours until 01:00 hours and Thursday – Saturday from 10:00 until 02:00 hours. The current opening hours on the licence are Sunday – Thursday 10:00 hours until 23:30 hours and Friday – Saturday from 10:00 hours until 00:30 hours.

1.7 The application has attracted representations from 3 Responsible Authorities namely the Licensing Authority, the Street Scene Enforcement Team/Environmental Protection Team and Metropolitan Police Licensing. There are 4 representations from Interested Parties namely 3 Ward Councillors and a local resident. There are 2 representations in support of the application from local residents.

## 2.0 RECOMMENDATION

2.1 That the Licensing Sub Committee consider the application to vary the current premises licence in respect of the Prince of Wales, 1 Harlington Road, Uxbridge, UB8 3HX.

## 3.0 APPLICATION

3.1 An application to vary the premises licence for the Prince of Wales has been submitted by NTAD Consultants Limited on behalf of Mr Sheraz Sheikh Ahmed, Director of Game Measure Limited. The application seeks to extend the hours for licensable activities namely sale of alcohol, provision of regulated entertainment (including live music, recorded music and performance of dance) and late-night refreshment. The premises are situated on Harlington Road, Hillingdon, UB8 3HX.

### 3.2 Description of the premises

The premises is a pub and mediterranean restaurant with a beer garden at the rear which is used for shisha smoking. The premises offers food, music and entertainment e.g. belly dancer to its customers. The premises is situated near to residential dwellings on both the Uxbridge Road and Harlington Road.

### 3.3 Current licensable activities, hours and opening hours

<u>Activity</u>		<u>Hours</u>
Sale of alcohol	Consumption on and off the premises	Sunday – Thursday 10:00 – 23:00 Friday – Saturday 10:00 – 00:00
Live music	Indoors only	Sunday – Thursday 10:00 – 23:00 Friday – Saturday 10:00 – 00:00
Recorded Music	Outdoors	Sunday – Thursday 10:00 – 22:00 Friday – Saturday 10:00 – 23:00
Recorded Music	Indoors	Sunday – Thursday 10:00 – 23:00 Friday – Saturday 10:00 – 00:00
Performance of Dance	Indoors only	Sunday – Thursday 10:00 – 23:00 Friday – Saturday 10:00 – 00:00
Late Night Refreshment		Friday – Saturday 23:00 – 00:00

	<u>Opening Hours</u>
Monday	10:00 – 23:30
Tuesday	10:00 – 23:30
Wednesday	10:00 – 23:30
Thursday	10:00 – 23:30
Friday	10:00 – 00:30
Saturday	10:00 – 00:30
Sunday	10:00 – 23:30

The current premises licence can be found in **Appendix 3**

3.4 Proposed hours for licensable activities and opening hours

	Recorded Music	Regulated Entertainment (inc Performance of Dance)	Late Night Refreshment (on & off premises)	Sale of Alcohol (on & off premises)	Opening Hours
<b>Monday</b>	10:00 – 00:30	10:00 – 00:30 External area 10:00 – 23:00	23:00 – 00:30	10:00 – 00:30	10:00 – 01:00
<b>Tuesday</b>	10:00 – 00:30	10:00 – 00:30 External area 10:00 – 23:00	23:00 – 00:30	10:00 – 00:30	10:00 – 01:00
<b>Wednesday</b>	10:00 – 00:30	10:00 – 00:30 External area 10:00 – 23:00	23:00 – 00:30	10:00 – 00:30	10:00 – 01:00
<b>Thursday</b>	10:00 – 01:30	10:00 – 01:30 External area 10:00 – 23:00	23:00 – 01:30	10:00 – 01:30	10:00 – 02:00
<b>Friday</b>	10:00 – 01:30	10:00 – 01:30 External area 10:00 – 23:00	23:00 – 01:30	10:00 – 01:30	10:00 – 02:00
<b>Saturday</b>	10:00 – 01:30	10:00 – 01:30 External area 10:00 – 23:00	23:00 – 01:30	10:00 – 01:30	10:00 – 02:00
<b>Sunday</b>	10:00 – 00:30	10:00 – 00:30 External area 10:00 – 23:00	23:00 – 00:30	10:00 – 00:30	10:00 – 01:00

3.5 Other licensed premises nearby

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 (on/off supplies)	Sale of alcohol:  From 08.00 hours until 01.00 hours the following day, every day  The sale of alcohol to persons residing within the hotel is not time restricted.  Provision of late-night refreshment:  From 23.30 hours until 01.00 hours the following day, every day

		<p>The provision of recorded music is not subject to any time restrictions.</p> <p>The sale of alcohol and provision of late night refreshment on New Year's Eve is as stated in the opening hours of the premises for New Years Eve.</p>
<p>The Vine Inn 121 Hillingdon Hill Uxbridge UB10 0JQ</p>	<p>Performance of live music (indoors)</p> <p>Recorded music (indoors)</p> <p>Performance of dance and entertainment of a similar description (indoors)</p> <p>Provision of late-night refreshment (indoors)</p> <p>Sale of alcohol (on/off premises)</p>	<p>Sunday – Wednesday 10:00 - 00:00</p> <p>Thursday – Saturday 10:00 – 01:00</p> <p>An additional hour following those detailed above on: Friday, Saturday, Sunday and Monday of bank holiday weekends The Thursday before Good Friday Christmas Eve On St David's Day St Patrick's Day St George's Day St Andrew's Day and on no more than 12 occasions per 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>In addition, the sale of alcohol only from 10.00 hours on New Year's Eve to 10.00 hours on New Year's Day</p>
<p>Discount Food &amp; Wine 10 Crescent Parade Long Lane Hillingdon UB10 0LG</p>	<p>Sale by retail of alcohol</p>	<p>From 06:00 hours until 24:00 hours, Monday to Saturday</p> <p>From 06:00 hours until 23:00 hours on Sundays</p>
<p>Specialist Off Licence 81-83 Manor Parade Uxbridge Road</p>	<p>Sale by retail of alcohol</p>	<p>Between 08.00 and 23.00 each day</p>

Hillingdon UB10 0JQ		
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A map of nearby licensed premises can be found in **Appendix 7**.

### 3.6 Operating Schedule and Conditions

The conditions being offered by the applicant can be found in a separate operating schedule attached as **Appendix 2**. Whilst the operating schedule submitted with the application includes a significant number of conditions from the current premises licence (**Appendix 3**) there are several omissions, mainly in relation to conditions designed to uphold the Prevention of Public Nuisance licensing objective.

## 4.0 **CONSULTATION**

### 4.1 Closing date for representations

4<sup>th</sup> May 2024

### 4.2 Public Notice published in local newspaper

17<sup>th</sup> April 2024 – West London Gazette

## 5.0 **REPRESENTATIONS**

5.1 We have received representations from the Licensing Authority, the Street Scene Enforcement Team/Environmental Protection Team and Metropolitan Police Licensing acting as Responsible Authorities under the Act.

<b>Responsible Authorities</b>	<b>Ground for Representation</b>	<b>Appendix</b>
Licensing Authority	Prevention of Crime and Disorder Prevention of a Public Nuisance	Appendix 4
Street Scene Enforcement Team/Environmental Protection Team,	Prevention of a Public Nuisance	Appendix 4
Metropolitan Police	Prevention of Crime and Disorder Prevention of Public Nuisance	Appendix 4

5.2 We have received representations from Interested Parties:

<b>Councillor/Resident</b>	<b>Ground for Representation</b>	<b>Appendix</b>
Cllr Bennett	Prevention of Crime and Disorder Prevention of Public Nuisance Public Safety	Appendix 5
Cllr Gohil	Prevention of Public Nuisance Public Safety	Appendix 5
Cllr Chamdal	Prevention of Public Nuisance Public Safety	Appendix 5
Thomas Craig	Prevention of Public Nuisance	Appendix 5

### 5.3 Representations of support for the application

<b>Resident</b>	<b>Grounds for Support</b>	<b>Appendix 6</b>
Janice Hopper	Does not believe that an additional hour is unreasonable. New measures to manage clientele seems to have been successful.	Appendix 6
Kate Hendrick	Not experiencing any problems. Likes having the premises – nice community feel to the area.	Appendix 6

## 6.0 BACKGROUND INFORMATION

6.1 The premises had a licence until December 2021 when the Licensing Sub-Committee revoked it following a review which stemmed from a serious incident – a stabbing where one of the four victims was a 16-year-old girl who had been drinking at the premises. An appeal by the premises licence holder was unsuccessful and the revocation took effect in February 2022.

6.2 A new premises licence application was received from Game Measure Limited in March 2023. The premises planned to offer a similar experience to that which was there prior to the

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Classification: Public

licence being revoked i.e. food (including late night refreshment), drinks (including alcohol), regulated entertainment and shisha.

6.2 The application attracted 3 representations from the Responsible Authorities, 3 Representations from Interested Parties and 3 Representations of support.

6.3 The application was heard by the Licensing Sub-Committee in April 2023 and a premises licence was granted but with reduced hours from that which were originally applied for and subject to 43 conditions designed to combat the issues that the premises had previously had.

## **7.0 OFFICER'S OBSERVATIONS**

7.1 This application seeks to extend the hours for the existing licensable activities authorised by the current premises licence.

7.2 The premises is situated in an area where there is residential accommodation so the potential for public nuisance is a consideration.

7.3 According to our records, the premises has submitted six Temporary Event Notices (TEN) since February 2023 – one was withdrawn, and one was refused following an objection from Police Licensing.

7.4 The Licensing Service is aware of seven complaints that have been made about the Prince of Wales since April 2023. Six of these complaints relate to loud amplified music and noise from the rear garden and one concerns planning consent for parking patrons' vehicles at Green Cottage – this arrangement was proposed at the April 2023 Licensing Sub-Committee hearing in order to address residents' concerns about parking issues at the premises. One of the noise complaints was made on 18<sup>th</sup> November 2023 at 14:00 hours when there was a TEN in place for a private party from 13:00 – 19:00 hours. The most recent noise complaint was received on 27<sup>th</sup> April 2024 and concerned loud amplified music, cars being parked on the pavement outside and behind the bus stop at Coney Green and an alleged breach of a planning order to remove a retractable roof.

7.5 There have been three members enquiries since February 2023. Two relate to planning and one relates to an enquiry about a TEN.

7.6 The representations received mainly raised the following issues:

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

Metropolitan Police Licensing have expressed concerns that the removal of conditions combined with an increase in hours will have a negative impact on the public and the licensing objectives. They are of the view that stringent conditions are required in order to ensure that the premises is managed appropriately, prevents crime and disorder, protects the public and upholds the licensing objectives.

A recent unannounced visit to the venue on Saturday 27<sup>th</sup> April 2024 at 22:25 hours revealed failings with conditions on the licence not being complied with.

A subsequent follow up meeting at the premises on 2<sup>nd</sup> May 2024 revealed further failings. To not adhere to licence conditions undermines the licensing objective and this has reduced the trust and confidence that the Police has in the management of the premises.

The Licensing Authority reflect similar concerns. In their opinion the licensing objectives would be undermined if the licensable activities were extended, and key current conditions removed. The findings of the 27<sup>th</sup> April and 2<sup>nd</sup> May visits leaves the Licensing Authority questioning whether management would be fully compliant should the variation be granted.

Cllr Bennett is concerned about a return of knife crime, underage drinking, illegal parking and property damage that residents have suffered previously.

Cllr Gohil notes that when the premises previously operated with late hours, the Police were often called to deal with incidents and that the premises would be mentioned frequently in discussions with the Police at local SNT meetings. Cllr Gohil echoes Cllr Bennett's concerns that an extension to the hours would lead to an increase in crime as well as disorderly behaviour from customers under the influence of alcohol.

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

Concerns have been raised by the Licensing Authority that the proposed finishing times for licensable activities coupled with the absence of conditions from the current premises licence designed to uphold the Prevention of Public Nuisance licensing objective, in the proposed operating schedule would likely cause disturbance for residents living in the vicinity of the premises.

The Street Scene Enforcement Team/Environmental Protection Team also have concerns, following recent complaints of noise nuisance (music and entertainment outside in the garden) and anti-social behaviour e.g. parking issues. The most recent complaint being received on 27<sup>th</sup> April 2024.

Metropolitan Police Licensing have echoed the concerns of the Licensing Authority in relation to the increase in hours and the removal of conditions having a negative impact on the public and the licensing objectives. They are of the view that stringent conditions are required in order to ensure that the premises is prevented from causing a public nuisance.

Cllr Bennett is concerned that the anti-social behaviour which includes reports of excessive noise and patrons bumping their cars up the kerb of Harlington Road and then driving across and parking on the pavement will not only continue but increase.

Cllr Gohil has expressed concerns over the effect that an extension of the hours will greatly disturb the lifestyle of residents, many of whom have young children. It is her opinion that the existing hours and conditions has played a key part in achieving a reduction in the anti-social behaviour experienced previously. It is feared that granting the variation will bring a swift return to the public nuisance that residents suffered before. In addition, there are concerns that the current parking problems will worsen with an increase in visitors to the venue.

Cllr Chamdal has advised that having spoken to residents, the majority are against a change to the closing hours with issues concerning noise, parking and taxi pickups being cited.

Mr Craig notes that since the restrictions on the licence have been in place they have had several disturbances but far fewer than before. He has expressed concerns over an increase of noise from the music and belly dancing at the rear of the premises and from patrons leaving the venue late at night/early in the morning should the variation be granted.



## c) **Public Safety**

Cllr Bennett, Cllr Gohil and Cllr Chamdal have all highlighted problems being caused by patrons of the premises parking irresponsibly along Harlington Road and the surrounding areas including driving across and parking on pavements and parking on double yellow lines.

- 7.7 The representation from Janice Hopper in support of the application states that extending the licence by an extra hour is not unreasonable and that the measures currently in place to manage patrons seem to have been successful. Kate Hendrick states that they have not had any trouble, the staff are polite and help them to park their car by managing the venue's parking and that the premises brings a community feel to the area.

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

#### **Where representations are made**

- 8.1 **At paragraph 9.3** it states that "Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 to 9.10), the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10). Relevant representations can be made in opposition to or in support of, an application and can be made by any individual, body or business that has grounds to do so.

#### **Relevant, vexatious and frivolous representations**

- 8.2 **At paragraph 9.4** it states that "A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises."
- 8.3 **At paragraph 9.9** it states that "It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making the representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it."

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

- 8.4 **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".

- 8.5 **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".
- 8.6 **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**

- 8.7 **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."
- 8.8 **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."
- 8.9 **At paragraph 10.9** It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.
- 8.10 **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**

- 8.11 **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.
- 8.12 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".
- 8.13 **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."

### **Licensing hours**

- 8.14 **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".
- 8.15 **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".

## 9.0 Relevant sections of Hillingdon's Licensing Policy

### Licensing Objectives – The Prevention of Crime and Disorder

- 9.1 **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.
- 9.2 **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.
- 9.3 **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.

### Licensing Objectives – Public Safety

- 9.4 **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.

### Licensing Objectives – The Prevention of Public Nuisance

- 9.5 **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.
- 9.6 **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.

### Representations

- 9.7 **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 residents 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)

9.8 **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.

9.9 **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.

9.10 **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.

### **Licensing Hours**

9.11 **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".

9.12 **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".

9.13 **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".

9.14 **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.

9.15 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**

9.16 **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"

9.17 **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".

9.18 **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".

9.19 **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 licence variation applications the Sub-Committee is required carry out its functions with a view to 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 An application for variation of a premises licence may be made pursuant to s.34 of the Licensing Act 2003 and is essentially governed by Licensing Act 2003, reg.12 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005/42), Licensing Act 2003 (Hearings) Regulations 2005/44) and s.182 Secretary Code of Guidance.

10.3 The Sub-Committee must ensure that all licensing decisions have:

- A direct relationship to the promotion to the promotion of one or more of the four licensing objectives;
- regard to the Council's statement of licensing policy;
- regard to the Secretary of State guidance; and
- not be made as a result of a blanket policy which is applied so rigidly that an exercise of discretion in each individual case is precluded

10.4 Applications must be considered with regard to the principles of fair process and the Human Rights Act 1998 and must have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary, section 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 a relevant protected characteristic and persons who do not share it.
- 10.5 Section 149(7) of the Equality Act 2010 defines nine relevant protected characteristics examples are; race, sex, age, disability and religious beliefs
- 10.6 When considering an application for the variation of an existing Premises Licence, only the variation is subject to determination. An application to vary the premises licence concerns variation of the conditions attaching to the licence or of the authorised licensable activities.
- 10.7 The application to vary must be accompanied by the Premises Licence (unless that is impracticable when a statement explaining why must be provided).
- 10.8 The authority must make the variation as applied for, subject to the mandatory conditions, unless relevant representations are made, in which case a hearing must be held.
- 10.9 Where relevant representations are made, the Licensing Authority must hold a hearing to consider them, unless it is agreed that a hearing is unnecessary ([s.35\(3\)\(a\)](#)).
- 10.10 The Licensing Authority must then take such of the following steps as it believes to be appropriate for the promotion of the licensing objectives:
  - a) modify the conditions of the licence or
  - b) reject the whole or part of the application ([s.35\(3\)\(b\)](#) and [\(4\)](#)).
- 10.11 When determining applications to vary an existing Premises Licence, the Sub-Committee must consider all relevant representations that are made before taking such steps (if any) as it considers necessary for the promotion of the licensing objectives. The steps that may be taken are as follows:
  - grant the variation as applied for;
  - modify the conditions of the licence (conditions are deemed to be modified if they are altered/omitted or new conditions are added); or
  - reject whole or part of the application to vary the licence.
- 10.12 Any modification of conditions should be confined to those considered appropriate in respect of the particular variation sought.
- 10.13 The Sub-Committee must also have regard to the London Borough of Hillingdon's Statement of Licensing and the Secretary of State's Guidance issued under the Licensing Act 2003 when deciding what action, if any, to instigate. The terms of the Statement of Licensing Policy and Guidance are highly persuasive however, are not binding on the Licensing Sub-Committee.
- 10.14 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.

- 10.15 In order for representations to be 'relevant' they must have been made by an interested party or a responsible authority (see the definitions in [section 13](#) Licensing Act 2003) and they must relate to the likely effect on the promotion of the licensing objectives if the application were to be granted.
- 10.16 If the representations are made by an interested party there is a further requirement that the licensing authority does not consider them to be frivolous or vexatious. If it thinks they are, it must explain its decision to the person who made the representations.
- 10.17 The need for a hearing can be dispensed with by agreement of the authority, the applicant for the variation and all of the parties who have made relevant representations.
- 10.18 The authority must notify its decision to the applicant, the interested party and any person who has made relevant representations and, must give reasons for its decision.
- 10.19 A variation of a premises licence may impose different conditions on different parts of the premises or impose different conditions in relation to different licensable activities.
- 10.20 Conditions should also be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. Conditions will not be necessary if they duplicate a current statutory requirement. Licensing Authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.