

Application for the grant of a Premises Licence: Mandala Restaurant and Lounge, Carter House, Colham Mill Road, West Drayton, UB77AE

Committee	Licensing Sub-Committee
Officer Contact	Licensing Officer – Mark Rose
Papers with report	Appendix 1 - Application for the grant of a new premises licence Appendix 2 - Plan of premises Appendix 3 - Representation from Licensing Authority Appendix 4 - Representation from the Metropolitan Police Appendix 5 - Representations from MP & Ward Councillors (5A-5D) Appendix 6 - Representations from interested parties (6A-6AG) Appendix 7 - Map of the area Appendix 8 - Photo of the premises Appendix 9 - Statement of truth
Ward name	West Drayton

1.0 SUMMARY

To consider an application for the grant of a new premises licence as seen in **Appendix 1** in respect of **Mandala Restaurant and Lounge, Carter House, West Drayton, UB77AE** which has attracted representations, from the local MP, Ward Councillors, local residents, the Licensing Authority and the Metropolitan Police. The plan of the premises is attached here as **Appendix 2**.

2.0 RECOMMENDATION

That the Licensing Sub-Committee consider this application for the grant of a new premises licence in respect of **Mandala Restaurant and Lounge, Carter House, West Drayton, UB77AE**.

3.0 APPLICATION

This new premises licence application has been submitted by Mr Nick Semper, an agent, acting on behalf of the applicant Mrs Andzelika Szylle. The premises is situated at Carter House, West Drayton, UB77AE.

This application has been submitted as permitted under Section 2(3) of the Licensing Act 2003 and it seeks permission for the sale of alcohol (on the premises only) 1100-2300 hours Monday to Thursday and 1100-0100 Friday to Sunday, and late-night refreshment, on Fridays, Saturdays and Sundays from 2300 until 0100 hours.

Opening hours sought are from Monday to Thursday from 1100 - 2300 hours and Friday to Sunday 1100 - 0100 hours.

The applicant has requested an extension for licensable activities until 0200 hours on the following days of the year: Valentines Day, Christmas Eve, New Years Eve, Bank Holidays and Sundays before Bank Holidays. Opening hours on these days will mirror the licensable hours.

The hours and the licensable activities are listed with further details in paragraphs 3.3 and 3.4 below.

3.1 Type of application applied for

New premises licence application pursuant to Section 17 of Licensing Act 2003.

3.2 Description of the premises

In section 5 in **Appendix 1**, the applicant has described the premises as follows-

The establishment is primarily food led, and focuses on food and dining, with the intention of selling alcohol to customers mostly during dining hours. The ground floor includes a bar waiting area and lounge area, designed to provide a relaxing environment for customers.

On the first floor and have a seating capacity of 47 covers. Upon entering, there is a bar area with the bar itself and three small tables accommodating six people. Adjacent to the bar area is a coffee section that can seat around 20 people. Additionally, there is a lounge area with 25 covers, available for both dining and relaxation purposes.

The owner has subsequently advised that he has acquired access via an alley to a small plot of land opposite the premises which will be used for parking. This alley is across the road from the premises and situated between the Mosque car park area and a residential property.

In the immediate vicinity of the premises is a Mosque, residential properties and a public house. The premises is on a corner of a residential road opposite the Railway Arms public house. There are residential homes to the side of the premises on Colham Mill Road, and residential properties on the other side of Colham Mill Road

3.3 Licensable Activities

<u>Activity</u>		<u>Proposed for new premises licence</u>
Sale of alcohol	Consumption on the premises	x
Late Night Refreshment	Indoors	x

3.4 Opening Hours and proposed hours for licensable activity

	Late Night Refreshment	Sale of Alcohol
Monday	N/A	11:00 – 23:00
Tuesday	N/A	11:00 – 23:00
Wednesday	N/A	11:00 – 23:00
Thursday	N/A	11:00 – 23:00
Friday	23:00 – 01:00	11:00 – 01:00
Saturday	23:00 – 01:00	11:00 – 01:00
Sunday	23:00 – 00:00	11:00 – 01:00

	Opening Hours of The Premises
Monday	11:00 - 23:00
Tuesday	11:00 - 23:00
Wednesday	11:00 - 23:00
Thursday	11:00 - 23:00
Friday	11:00 - 01:00
Saturday	11:00 - 01:00
Sunday	11:00 - 01:00

3.5 Other licensed premises nearby

Premises	Activities Authorised	Times Authorised
Railway Arms 1 Station Road West Drayton UB77BT	Sale of alcohol – on & off	All licensable activities – Monday to Saturday 10:00 hours to 01:00 hours

	<p>Regulated entertainment</p> <p>Late Night Refreshment</p>	<p>Sunday 12:00 hours to 00:30 hours the following day</p> <p>An additional hour following those detailed above on the following days- on Fridays, Saturdays, Sundays and Mondays for each easter bank holiday weekend.</p> <p>On Thursdays, Fridays, Saturdays, Sundays and Mondays for each Easter bank holidays weekend.</p> <p>On Christmas eve and boxing day.</p>
<p>Go Sing 22-24 Station Road West Drayton UB77BY</p>	<p>Sale of alcohol – on sales only</p> <p>Regulated entertainment</p> <p>Late night refreshment</p>	<p>All licensable activities –</p> <p>On weekdays, other than Christmas day, good Friday or new years eve between 10:00 – 24:00 hours.</p> <p>On Sundays, Christmas day and on good Friday between 12:00-23:30.</p> <p>From the start of licensed hours on New Years eve to the start of licensed hours on New Years Day.</p> <p>From 23:00 until 30 minutes after the terminal time for the sale of alcohol.</p> <p>Recorded music is not time restricted.</p>
<p>De Burgh Arms Station Approach High Street West Drayton UB77DQ</p>	<p>Sale of alcohol – on & off sales</p> <p>Late Night Refreshment</p> <p>Regulated entertainment</p>	<p>Alcohol - From 10-00 – 00:00 Sunday, Monday, Tuesday, Wednesday</p> <p>From 10:00 - 01:00 Thursday Friday and Saturday</p> <p>In addition to those hours detailed above, from the start of licensed hours on new years eve to the start of licensed hours on new year's day.</p> <p>An additional hour to the times above on the following days/dates-</p> <p>March 1st March 17th April 23rd Nov 30th</p> <p>Thursday before good Friday Good Friday Easter Saturday/Sunday/Monday Friday Saturday Sunday prior to may bank holiday May bank holiday Monday</p>

		<p>Friday Saturday Sunday prior to Spring bank holiday Spring bank holiday Monday Friday Saturday Sunday prior to August bank holiday August bank holiday Monday Dec 24th</p> <p>An additional hour to those mentioned above on 12 occasions per year subject to providing the licensing service, the councils EP unit and Met Police 10 working days' notice and then only on receiving a subsequent 'consent' from the councils licensing service.</p> <p>LNR (indoors only) – 23:00 – 01:00 Monday Tuesday and Wednesday, from 23:00 – 02:00 Thursday Friday and Saturday,</p> <p>Entertainment (indoors only) – 10:00 – 00:00 hours Sunday, Monday, Tuesday and Wednesday. 10:00 – 01:00 hours Thursday Friday and Saturday.</p>
West Drayton Grocery and News 2-4 Station Approach West Drayton UB79DY	Sale of alcohol – off sales only	06:00 – 00:00 Monday to Sunday
My local Store 5 Station Road West Drayton UB77BT	Sale of alcohol – off sales only	Monday to Sunday 06:00-24:00 hours
West Drayton convenience Store 18 Station Road West Drayton UB77BY	Sale of alcohol – off sales only	Between 08:00 – 00:00 hours
West Drayton Food and Wine 19 Station Road West Drayton UB77BT	Sale of Alcohol – off sales only	Between 08:00 – 00:00 hours
Ezee 2 shop food and wine 25 Station Road West Drayton UB77BT	Sale of alcohol – off sales only	From 08:00-23:00 each day

Peri Peri Original 77 High Street Yiewsley UB77QH	Late Night refreshment	Sunday-Thursday 23:00-02:00 hours Friday – Saturday 23:00-03:00 hours
Maxim Food and Wine 89 High Street Yiewsley UB77QH	Sale of alcohol – off sales only	Monday – Sunday 07:00 – 23:00
KFC 78/80 High Street Yiewsley UB77DS	Late night refreshment	Monday – Thursday 23:00 – 01:00 Friday and Saturday 23:00 – 02:00
Best Food and Wine 61 Station Road West Drayton UB77LR	Sale of Alcohol – off sales only	From 08:00 - 00:00

3.6 Operating Schedule and Conditions

Section 18 of the operating schedule of the application in **Appendix 1** demonstrates the steps the applicant proposes to take to promote the licensing objectives.

4.0 **CONSULTATION**

4.1 Closing date for representations

29th December 2024.

4.2 Public Notice published in local newspaper

11th December 2024 – The Gazette.

5.0 REPRESENTATIONS

5.1 We have received two representations from the Licensing Authority and the Metropolitan Police, acting as Responsible Authorities under the Act

Responsible Authorities	Ground for Representation	Appendix
Licensing Authority	Prevention of Crime and Disorder Prevention of Public Nuisance Protection of Children from Harm	Appendix 3
Metropolitan Police	Prevention of Crime and Disorder Public Safety Prevention of Public Nuisance Protection of Children from Harm	Appendix 4

5.2 We have received representations from Rt. Hon. John McDonnell MP, three local ward Councillors in Jan Sweeting, Mohammed Islam and Scott Farley and numerous local residents, who are listed below. Please note that some of the representations have been submitted jointly by couples.

Interested Parties	Ground for Representation	Appendix
John McDonnell MP	Prevention of Crime and Disorder Prevention of Public Nuisance Public Safety	Appendix 5A
Cllr Jan Sweeting	Prevention of Crime and Disorder Prevention of Public Nuisance Protection of Children from Harm Public Safety	5B
Cllr Islam	Prevention of Crime and Disorder Prevention of Public Nuisance	5C
Cllr Farley	Prevention of Crime and Disorder Prevention of Public Nuisance	5D
Alan / Lorraine Clarke	Prevention of Public Nuisance	6A

Alicia Zsoter	Prevention of Crime and Disorder Prevention of Public Nuisance Protection of Children from Harm Public Safety	6B
Alison Aurnhammer	Prevention of Crime and Disorder Prevention of Public Nuisance Public Safety	6C
Alison Roper	Prevention of Crime and Disorder Prevention of Public Nuisance Protection of Children from Harm Public Safety	6D
Andrew Fox	Prevention of Crime and Disorder Prevention of Public Nuisance	6E
Angela Beenham	Prevention of Crime and Disorder Prevention of Public Nuisance Protection of Children from Harm Public Safety	6F
Barry O'Donovan	Prevention of Public Nuisance Public Safety	6G
Brian Johnson	Prevention of Public Nuisance	6H
Catherine Stocker	Prevention of Crime and Disorder Prevention of Public Nuisance	6I
Gill Anstiss	Prevention of Public Nuisance Protection of Children from Harm Public Safety	6J
James Snowdon	Prevention of Public Nuisance	6K
Janet Woeginger	Prevention of Crime and Disorder Prevention of Public Nuisance Protection of Children from Harm Public Safety	6L
John Allen	Prevention of Crime and Disorder Prevention of Public Nuisance Protection of Children from Harm Public Safety	6M
Ramaljit Kaur	Prevention of Crime and Disorder	6N

	Prevention of Public Nuisance Protection of Children from Harm Public Safety	
Margaret / Alan Atkinson	Prevention of Public Nuisance Public Safety	6O
Mike Baker	Prevention of Crime and Disorder Prevention of Public Nuisance Protection of Children from Harm Public Safety	6P
Prasanna Pothakamuri	Prevention of Crime and Disorder Prevention of Public Nuisance Protection of Children from Harm Public Safety	6Q
Rachel Rule	Prevention of Crime and Disorder Prevention of Public Nuisance Public Safety	6R
Sade Kur	Prevention of Crime and Disorder Prevention of Public Nuisance Protection of Children from Harm Public Safety	6S
Salah Qureshi	Prevention of Public Nuisance	6T
Sarah Woodney	Prevention of Crime and Disorder Prevention of Public Nuisance	6U
Satyanarayana Pothakamuri	Prevention of Crime and Disorder Prevention of Public Nuisance Protection of Children from Harm Public Safety	6V
Sylvia Taylor	Prevention of Crime and Disorder Prevention of Public Nuisance Protection of Children from Harm Public Safety	6W
Thomas Aurnhammer	Prevention of Public Nuisance	6X
Tirath Singh	Prevention of Crime and Disorder Prevention of Public Nuisance	6Y

	Protection of Children from Harm Public Safety	
Trupti Trivedy	Prevention of Crime and Disorder Prevention of Public Nuisance Protection of Children from Harm Public Safety	6Z
Rajnish / Ruchi Tyagi	Prevention of Crime and Disorder Prevention of Public Nuisance Protection of Children from Harm Public Safety	6AA
Zaid Alsafi	Prevention of Public Nuisance Public Safety	6AB
Julie Rogers	Prevention of Crime and disorder Prevention of Public nuisance Public Safety	6AC
Donna White	Prevention of Crime and Disorder Prevention of Public Nuisance Protection of Children from Harm Public Safety	6AD
Kim / Russell Widginton	Prevention of Public nuisance	6AE
Louis Pinto	Public Safety	6AF
Alison Roper	2 Photo's showing white vehicle	6AG

Alison Roper submitted a photo separate from her representation, her representation is appendix 6D and the photos as appendix 6AG.

6.0 BACKGROUND INFORMATION

6.1 Designated Premises Supervisor

The proposed Designated Premises Supervisor (DPS) is Andzelika Szylle who holds a valid Personal Licence granted by the London Borough of Ealing.

6.2 A map of the area is attached as **Appendix 7**.

6.3 A photo of the premises from the outside can be found in **Appendix 8**.

- 6.4 There have been two recorded Members' Enquires for this premises. One was from Cllr Sweeting on August 23rd, 2024, reference 2386 2440 4732 6506 and the other on 23rd December 2024 from John McDonnell MP reference 1277 8228 3199 1405.

Cllr Sweeting enquired about the premises asking if a licence had been issued, and if not, to contact the owner for a timescale on completion as local residents were concerned about the impact the premises would have as its in a residential area and extended hours would be of concern. She also highlighted that the internal fixtures appeared to be likened to a nightclub.

John McDonnell MP states that many constituents have contacted him to raise their concerns regarding noise, parking and cars backing up onto a busy main road due to parking. He adds that he shares their concerns and asks that these points are fully considered.

7.0 OFFICER'S OBSERVATIONS

- 7.1 This is an application for a premises licence for, as described on the premises' website, 'a new dining and lounge experience in West Drayton, London, where Mediterranean and European flavours meet.' The website also advertises shisha and cocktails. The signage at the front of the premises says, 'Restaurant Bar Lounge'. The application concerns the provision for sale of alcohol (on sales only) and late-night refreshment.

The premises does not currently have a premises licence; however, they applied for and were granted four temporary event notices (TENS) in December for the maximum time of 21 days total. The dates for these TENS were as follows-

Dates of TEN	Licensable activity	Times
December 5 th - 8 th	Sale of Alcohol Late Night Refreshment	11:00 – 00:00
December 10 th – 15 th	Sale of Alcohol Late Night refreshment	11:00 – 00:00
December 17 th – 21 st	Sale of Alcohol	11:00 – 00:00
December 23 rd – 28 th	Sale of Alcohol	11:00 – 00:00

The agent acting on behalf of Mandala Restaurant has submitted a statement of truth, this statement supports the premises application, a local resident states that she has experienced no noise nuisance or problems with parking during the times the premises has been open. This is attached as **Appendix 9**.

- 7.2 The representations received mainly raises the following issues:

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

This topic is mentioned by both the Police and the Licensing Authority in their representations. The Licensing Authority highlights the need for extra clarity around the restaurant being food led and to what extent vertical drinking will form part of their operation and when SIA door staff would be used. This point is echoed by the Metropolitan Police, with concerns being expressed about the late hours and lack of drinking up time. They feel that extra conditions are required to limit the number of people who could use the bar for alcohol only and require a dispersal policy to limit the potential for disorder and disturbance.

Many of the representations from Councillors and residents stress their concerns for the potential for ASB and crime to increase in the area if the premises attracts the wrong type of people. Some also mention that when this premises was a café it had a history of ASB and crime. Although it now appears to be under new ownership and management.

Residents also mention that the premises is located at a junction which is the entrance to a large residential area and there is a history of youths congregating on the corner and litter being a significant issue.

A number of representations feel that the late hours are inappropriate for a residential area and that this will negatively impact the residents by encouraging late night drinking.

b) The Prevention of Public Nuisance

Almost all the representations made by residents concern the issue of parking, access and noise. The restaurant only has 3 parking spaces outside and have advised that they have rented out the land opposite to use as a car park. This land is accessed via a small alleyway wide enough for one car so may also cause issues with vehicles regularly coming and going for a venue that can hold 110 people. A site visit was carried out on December 19th at 10:50 hours and it was noted that this small piece of land already had a number of vehicles parked there by people working in the metal containers situated on the land. The staff there were unaware that the land was going to be used by the restaurant. Almost all the space was already taken leading to a vehicle having to park in the alleyway restricting access in and out.

A significant number of representations mention that parking is already difficult and that's before the restaurant is fully open. In addition, as the junction of Colham Mill Road and Station Road, where Mandala Restaurant is located, is the only way to enter/leave the estate it can be a pinch point which could be exacerbated by parking for the restaurant.

The DPS was specifically asked about the parking problems by the Metropolitan Police, and she informed them that she felt that it was mainly due to deliveries during the renovation works and did not anticipate parking being a problem going forward

As the restaurant is situated next to and opposite residential homes many representations highlight the fact that possible noise issues from intoxicated patrons leaving the venue would have a detrimental impact on their lives.

Representations from the local councillors echo the points above.

c) The Protection of Children from Harm

Although this objective has been selected in a lot of the representations submitted, many of the concerns raised fall under the other licensing objectives.

Some representations also highlight that if the venue is more of a bar and attracts underage drinkers, they do not have SIA door staff to deter this.

d) Public safety

Many residents mention that the issue with parking coupled with the premises being located at a busy junction opposite a Mosque may affect emergency vehicles entering the estate.

In addition, the premises has 3 spaces for vehicles and a photo submitted by Alison Roper as **Appendix 6AG** show that parked vehicles can overhang the pavement causing an obstruction. It shows that the car park spaces at the restaurant are so close to the pavement that they block it when in use thus requiring a wheelchair user or pram to use the road in order to get past.

According to residents' representations, this was an ongoing issue during the renovation work at the premises where work vans were parked outside causing obstructions to the pavement and highway.

8.0 RELEVANT SECTIONS OF S.182 GUIDANCE

8.1 Where representations are made

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.

8.2 Relevant, vexatious and frivolous representations

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."

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."

8.3 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".

8.4 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".

8.5 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."

8.6 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.

8.7 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.