

Report for: Licensing Sub Committee - 25 November 2024

Item number: 6

Title: Application for a New Premises Licence at: Moon Lake, 208-208A Archway Road, Highgate, London N6 5AX

authorised by: Daliah Barrett-Licensing Team Leader – Regulatory Services.

Ward(s) affected: Highgate

Report for Key/ Non-Key Decision: Not applicable

1. **Describe the issue under consideration.**

1.1 The application is submitted by Matthew Potashner and seeks the following activities (copy of the application is at App A)

1.2 **The application seeks the following:**

Regulated Entertainment: Live Music and Recorded Music

Sunday to Thursday 0800 to 0000 hours
Friday to Saturday 0800 to 0100 hours

Late Night Refreshment

Sunday to Thursday 2300 to 0000 hours
Friday to Saturday 2300 to 0100 hours

Sale of Alcohol

Sunday to Thursday 0800 to 0000 hours
Friday to Saturday 0800 to 0100 hours

Supply of alcohol **ON** and **OFF** the premises.

All licensing activities from the end of permitted hours on New Year's Eve to the start of permitted hours New Year's Day.

Hours open to Public

Sunday to Thursday 0800 to 0000 hours
Friday to Saturday 0800 to 0100 hours

From the end of permitted hours on New Year's Eve to the start of permitted hours New Year's Day.

1.4 **Representations have been received from:**

Representation from Noise RA – App B

1.5 **Recommendation**

In considering the representations received and what is appropriate for the promotion

of the licensing objectives, the steps the Sub-Committee can take are:

- Grant the application as requested
- Grant the application whilst imposing additional conditions and/or altering in any way the proposed operating schedule.
- Exclude any licensable activities to which the application relates.
- Reject the whole or part of the application.

Members of the licensing sub committee are asked to note that they may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must be appropriate in order to promote the licensing objectives.

2 Background

2.1 The premises is located along Archway Road at the end of a terrace of shop with residential above. The premises was operated/used as an office. It shares an adjoining wall with residential property.

3 Licensing Policy

3.1 The committee will also wish to be aware of the guidance issued under section 182 of the Licensing Act 2003. Licensing is about regulating the provision of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Licensing Act 2003. The terms and conditions attached to various permissions are focused on matters which are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.

3.2 The objective of the licensing process is to allow for the carrying on of licensable activities whilst promoting and upholding the licensing objectives the prevention of public nuisance, prevention of crime and disorder, public safety, and protection of children from harm. It is the Licensing Authority's wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.

3.3 In considering licence applications, where relevant representations are made, this Licensing Authority will consider the adequacy of measures proposed to deal with the potential for public nuisance and/or public disorder having regard to all the circumstances of the case.

3.4 Where relevant representations are made, this authority will demand stricter conditions regarding noise control in areas that have denser residential accommodation, but this will not limit opening hours without regard for the individual merits of any application. This authority will consider each application and work with the parties concerned to ensure that adequate noise control measures are in place. Any action taken to promote the licensing objectives will be appropriate and proportionate.

3.5 This Licensing Authority in determining what action to take will seek to establish the cause of concern and any action taken will be directed at these causes. Any action taken to promote the licensing objectives will be appropriate and proportionate.

3.6 Also the Licensing Authority may not impose conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of the hearing that it is appropriate to impose conditions to promote one or more of the four

licensing objectives. Therefore, conditions may not be imposed for the purpose other than promoting the licensing objectives and in some cases no additional conditions will be required.

- 3.7 In cases Members should make their decisions on the civil burden of proof, that is the balance of probability.
- 3.8 Members should consider in all cases whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.
- 3.9 The Government has advised that conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. Conditions cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff.
The Councils Licensing policy expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.

4 Licensing hours

- 4.1 Where relevant representations are made, the Council will consider the proposed hours on their individual merits. Notwithstanding this, the Council may require stricter conditions in areas that have denser residential accommodation to prevent public nuisance. The Council will endeavour to work with all parties concerned in such instances to ensure that adequate conditions are in place. The Council may restrict the hours that certain premises can offer alcohol for sale for consumption off the premises for preventing crime, disorder and nuisance.

5 Powers of a Licensing Authority

- 5.1 The decision should be made about the Secretary of the State's guidance and the Council's Statement of Licensing Policy under the Licensing Act 2003. Were the decision departs from either the Guidance or the Policy clear and cogent reasons must be given. Members should be aware that if such a departure is made the risk of appeal / challenge is increased.
- 5.2 The licensing authority's determination of this application is subject to a 21-day appeal period or if the decision is appealed the date of the appeal is determined and /or disposed of.

6 Other considerations

Section 17 of the Crime and Disorder Act 1998 states:

"Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that it reasonably can prevent crime and disorder in its area".

6.1 Human Rights

While all Convention Rights must be considered, those which are of particular relevance to the application are:

- Article 8 – Right to respect for private and family life.
- Article 1 of the First Protocol – Protection of Property
- Article 6(1) – Right to a fair hearing.
- Article 10 – Freedom of Expression

7 Use of Appendices

**Appendix A - New Application.
Representation from Noise RA – App B**

**Background papers: Section 82 Guidance
Haringey Statement of Licensing policy**