

LICENSING SUB COMMITTEE: Friday 20 November 2020 at 11am
Hearing to be held virtually/remotely in accordance with current Covid-19
restrictions

Applicant: Shish Rickmansworth Limited

Application Premises: Shish Rickmansworth

**Application address: 8 Moneyhill Parade, Uxbridge Road, Rickmansworth
Hertfordshire, WD3 7BE**

Type of Application: Premises Licence

Date of Application: 5 October 2020

Date by which a hearing must be commenced: 22 November 2020

Valid application made: Yes

1. Summary of application sought:

The application is for a premises licence to permit the following activities:-

Activates applied for		
Recorded music	Sun – Wed	11:00 - 23:00
	Thurs – Sat	11:00 - 00:00
Non-Standard timings	Christmas Eve	11:00 - 00:30
	New Year's Eve	11:00 - 00:30
Performance of dance	Mon - Sunday	11:00 - 23:00
Supply of alcohol	Sun – Thurs	11:00 - 22:30
	Fri – Sat	11:00 - 23:30
Non-Standard Timings	Christmas Eve	11:00 - 00:30
	New Year's Eve	11:00 - 00:30
Provision of late night refreshment	Thurs – Sat	23:00 - 00:00
	Christmas eve	11:00 - 01:00
	New Year's Eve	11:00 - 01:00
Opening Times	Sun – Wed	11:00 - 23:00
	Thurs – Sat	11:00 - 24:00
Christmas Eve		11:00 - 01:00
New Years Eve		11:00 - 01:00

The applicant is proposing the premises to run as a restaurant playing ambient background music and to have belly dancing on occasion dependant on bookings.

Since the submission of the application we have received further instruction from IHC Business Consultancy on behalf of the applicant advising that they wish to keep in line with planning consent, withdraw the request for:

- 1) Opening hours beyond 23:00 Thursday to Saturday.
- 2) The sale of late night refreshment and any licensable activities after 23:00 including the supply of alcohol Thursday to Saturday.

In exchange they would like to be able to supply alcohol off premises (with a substantive meal for deliveries and/or take-away) in addition to supply on premises in line with the initial application.

The applicant would consent to conditions to ensure responsible drinking for off sales subject to a main meal being ordered.

All valid objections received have been informed of the requested amendment to the application.

The applicant has described ways in which they intend to promote the four licensing objectives (the operating schedule) (which will be included as conditions to any licence) and these include:

- The DPS (Designated Premises Supervisor) shall ensure all staff receive training into the legality and procedures of alcohol sales, prior to the undertaking of the sale of alcohol
Records to be maintained of training undertaken.
- Alcohol shall only be served on the premises ancillary to a substantive table meal
- A Challenge 25 policy would be in place in line with the mandatory conditions of a premise licence.
- CCTV to be installed at the premises. All recordings to be kept for 31 days and to show the correct date and time.
Staff shall be trained to operate the CCTV and must be available on the premises at all opening times
- A refusals book shall be kept at the premises where all refusals will be logged including date and time, a description of the customer and the name of the staff member who refused the sale and the reason the sale was refused
The book shall be made available to an authorised officer on request.
- No alcohol to be served to any person appearing intoxicated
- Water made available and provided to patrons to promote responsible drinking
- Fire safety equipment provided to required standards and serviced periodically
- Clear visible signage highlighting exit points. All exit points that will be free from obstruction whilst the premises is open to the public
- All external doors and windows shall be kept closed during the provision of recorded music and performances of dance entertainment to prevent excessive noise break out from the premises
- Suitable and sufficient soundproofing shall be installed and permanently retained to limit noise to adjoining properties
- Signs shall be placed in a prominent place at the exit point of the premises requesting patrons to respect the neighbours and leave quietly
- Deliveries and collections (including refuse and/or recycling collections) associated with the premises shall be arranged between the hours of 08:00 to 20:00 hours only
- No children shall be permitted on the premises unless accompanied by an adult
- A proof of age Challenge 25 scheme shall operate at the premises and all staff shall be trained in its implementation. Only photographic ID such as a UK driving licence or passport shall be treated as acceptable forms of identification

Summary of premises:

The premises relates to the ground floor of an end of terrace two storey building located on the corner of Uxbridge Road and Elm Way in Rickmansworth. The site makes up part of a parade of commercial units that front Uxbridge Road, otherwise known as Moneyhill Parade.

The premises was last used as a carpet shop but is currently in the process of being refurbished and extended following the grant of planning permission (Reference: 18/2493/FUL) which was awarded at appeal.

The site falls within a Local Shopping Centre location and there are other parades of commercial units nearby, including on the opposite side of Uxbridge Road, which comprises several restaurants and hot food takeaways.

The proposed use as a restaurant/take away would have opening hours of 11:00 to 23:00 (as a result of proposed amendment to application and planning) and later for a seasonal variation, until 00:30/00:00 which I understand would be consistent with other similar establishments in the vicinity e.g. Punto 00:00. Seating for up to approximately 64 customers is permitted under planning permission.

Other licensed premises in the area include:

- *Woks Cooking* (Chinese takeaway) which is licensed until 00.00 for the provision of late night refreshment
- *Punto* (Italian Restaurant & Pizzeria) – Supply of alcohol until 00:00 with numerous seasonal variations the latest being 00:00
- *Bargain Wines* (Off licence) – Retail sale of alcohol to 23:00
- *Best One* (Convenience Store) – Retail sale of alcohol to 00:00

By way of information only, there is on-street parking provision in place in various locations close to the site and therefore we would not envisage parking issues for customers to the restaurant, although parking is not a consideration for this licence application and nor is it a licensable activity. As stated in **Appendix 4**, section 12 of the planning appeal decision from 10 July 2019 it was considered that following a Parking Assessment the overall parking stress levels would not exacerbate existing parking pressures in the area as a whole to the extent that it would lead to inconvenient parking to other highway users that could increase the highway safety risk.

There is no known history as these premises have not previously been licensed. We have not received any complaints or objections from the Police or Environmental Health. We have not received any recent reports of noise nuisance or anti-social behaviour in the area.

2. Consultation

A Licensing Officer attended the premises prior to the hearing to ensure the blue notice was displayed in the correct manner and the applicant also provided photographic evidence of the same.

This hearing will be held remotely in accordance with current Covid-19 restrictions. Details of the remote hearing and attendance will be notified separately to those entitled to speak at the hearing and generally.

3. List of Objectors / Representations

Responsible Authorities: No objections from any responsible authorities. Advisory correspondence from Planning regarding conditions imposed on premises following appeal, i.e. opening hours permitted.

Other Persons:

3 x Objections from local residents.

4. Summary of Objections / Representations (the 4 Licensing Objectives)

Responsible Authorities:

Planning - Planning permission was granted following an appeal against the Council's decision to refuse planning permission under 18/2493/FUL (See **Appendix 4**). The appeal was allowed by The Planning Inspectorate on 10 July 2019 subject to a number of conditions including the submission of details relating to the glazing for the extension (with respect to resultant noise omission) and hours of use which is limited to 11am to 11pm Monday to Sunday, including Bank and Public Holidays. Consequently, therefore there would be conflict with the hours submitted as part of this premises licence application. The applicant would be required to re-submit or vary their planning permission for longer hours which given the locality is unlikely especially beyond 23:00hrs.

Relevant representations from "other persons":

These included the following-:

- The prevention of crime and disorder:

There is a concern that if granted this licence would see an increase in anti-social behaviour due to the late serving hours.

Antisocial behaviour – already problems with people urinating, defecating, vomiting and behaving badly on the parade.

There is a concern there would be an increase in anti-social behaviour due to the late serving hours

A possible increase in crime.

The hours of opening requested are unreasonably long

- Public safety: not applicable

- The prevention of public nuisance:

As this premises is a few metres from a residential street, namely Elm Way, and is felt that noise levels would increase as people exit the venue and also staff & customers using the alley at the rear of the premises as a smoking area.

There is a concern there would be an increase in anti-social behaviour due to the late serving hours and an increase of noise to local residents due to customers and bottle bins being emptied at an unacceptable hour.

Noise from the music and back alleyway will predominantly affect Elm Way.

Noise going on all hours of the day and night will affect the business and the property. People need to work and sleep and noise will affect the health of those here.

Noise as the Restaurant backs onto a residential road and people leaving the establishment may well make a great deal of noise with shouting and doors banging.

A music licence as it will cause stress to local residents due to the music being able to be heard outside the venue other establishments have music licenses on the understanding that the music cannot be heard outside the establishment.

- The protection of children from harm: not applicable

5. Statutory Guidance

The Licensing Objectives and Aims:

Paragraph 1.2

The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.

Paragraph 1.3

The Licensing Objectives:-

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

Paragraph 1.4

Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

Paragraph 1.5

However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- Protecting the public and local residents, from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- Giving the Police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- Recognising the important role which pubs and other licensed premises play in our communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises.
- Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and

- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may impact upon them.

Determining Applications:

Paragraph 9.1 General.

When a licensing authority receives an application for a new premises licence or an application to vary an existing premises licence, it must determine whether the application has been made in accordance with section 17 of the 2003 Act, and in accordance with regulations made under sections 17(3) to (6), 34, 42, 54 and 55 of the 2003 Act. It must similarly determine applications for the grant of club premises certificates made in accordance with section 71 of the 2003 Act, and in accordance with regulations made under sections 71(4) to (7), 84, 91 and 92 of the 2003 Act. This means that the licensing authority must consider among other things whether the application has been properly advertised in accordance with those regulations.

Paragraph 9.3: Where representations are made.

Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant 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. 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.

Paragraph 9.4:- Relevant, Vexatious and Frivolous Representations

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 from a businessperson that nuisance caused new premises would deter customers from entering the local area and the steps proposed by the applicant to control 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 a premise, to support their representations, and in fact this would not be possible for new premises.

Hours of Trading:

Paragraph 10.13

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 regarding licensed opening hours as part of the implementation of its licensing policy statement and 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.

Paragraph 10.14

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.

Paragraph 10.15

Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

Licensing Hours

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 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.

6. Licensing Policy (2016-2020)

LP1 - Fundamental Principles

LP1.1 In carrying out its licensing functions the Licensing Authority will promote the Licensing Act's four licensing objectives.

LP1.2 Purpose of Licensing policy.

To support and provide guidance to elected members.

To inform licence applicants.

To inform residents and businesses.

To support decisions made by the licensing Authority.

LP14 - CUMULATIVE STRESS

LP14.3 The Licensing Authority proposes to reserve its right to adopt a Cumulative Stress Policy (CSP) as provided for by the Secretary of State's Statutory Guidance. If this is ever applied, it might lead the Licensing Authority in turn to consider the question of whether the grant of any further premises licences or club premises certificates would undermine one or more of the licensing objectives.

LP17.0 – TRADING HOURS

LP17.1 With regard to Trading Hours the Licensing Authority proposes that proper consideration will always be given to the individual merits of an application. The Government strongly recommends that statements of licensing policy should recognise that longer licensing hours with regard to the sale of alcohol are important to ensure that concentrations of customers leaving premises simultaneously are avoided, and the Licensing Authority supports this view in principle.

LP17.2 The Licensing Authority recognises the potential for additional crime and disorder and / or public nuisance arising from extended licensing hours. Consequently, the Licensing Authority will scrutinise very carefully applications for extended licensing hours and, if determined appropriate, will seek to attach any necessary licence conditions for the promotion of the licensing objectives. For example, stricter conditions with regard to noise control will be expected in areas where the venue is in the vicinity of people's homes, but this should not unduly limit opening hours without regard to the individual merits of any application.

LP17.3 With regard to shops, stores and supermarkets, the normal scenario will be for such premises to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping, unless there are very good reasons for restricting those hours.

LP17.4 In the interests of reducing crime, disorder and anti-social behaviour, the Licensing Authority will prefer applications from public houses, night-clubs, off-licenses and clubs that show in their operating schedules a responsible approach to alcohol sales by:

- Ending alcohol sales at a designated time before they close, i.e. a closing time later than "a last orders" time for alcohol sales;
- Specifying a time by which the premises will be emptied of patrons and closed;
- Not taking part in discounted drinking promotions.

LP19 – PREVENTION OF CRIME

LP19.1 It is recommended that applicants for new premises licences and variations should discuss the crime prevention procedures in their premises with the responsible authorities and the licensing officer before making a formal application.

LP19.2 Three Rivers District Council is committed to further improving the quality of life for the people of the District of Three Rivers by continuing to reduce crime and the fear of crime.

LP19.3 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on the Licensing Authority, Police and County Councils amongst others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003, as amended, reinforces this duty for local authorities.

LP19.4 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.

LP19.5 When addressing the issue of crime and disorder, the applicant should demonstrate that those factors that impact on crime and disorder have been considered. These may include:-

- (a) Underage drinking;
- (b) Drunkenness on premises;
- (c) Public drunkenness;
- (d) Drugs;
- (e) Violent behaviour;
- (f) Anti-social behaviour.

LP20 – PREVENTION OF PUBLIC NUISANCE

LP20.1 With regard to the prevention of public nuisance, the Licensing Authority will determine all new or varied licence applications considering all relevant factors, including:

- ◆ The nature of the activities at the premises;
- ◆ The hours of opening;
- ◆ Proximity to residential premises;
- ◆ Management of the premises ;
- ◆ The history of it's the premises' effect on neighbours and others in the vicinity;

LP20.2 The Licensing Authority will consider all proposed control measures, including;

- Effective and responsible management;
- Staff training;
- Adoption of best practice on noise control;
- Installation of suitable acoustic control measures;
- Where relevant, door supervision and management of customers as they enter and leave the premises.

LP20.3 Three Rivers has very many licensed premises that are close to or even enclosed by residential areas. Most of these are traditional community public houses and currently tolerated as the terminal hour is well established and neighbours know when they might expect any disturbances causing public nuisance to end.

LP20.4 It follows that operators of licensed premises that are in the vicinity of domestic premises (and in the vicinity of business/commercial premises, places of learning and places of worship) may find that applications for variations seeking;

- Extended hours of opening or trading
- The provision of regulated entertainment
- The provision of late night refreshment
- The supply of alcohol

may be subject to representations from such neighbours, their representative(s) and/or the Environmental Health Officer on the grounds that public nuisance might be caused by the intended activity. In most cases such representations will cause a local hearing, conducted by the Licensing Sub-Committee.

LP20.5 The Licensing Authority strongly encourages applicants to seek early discussions with the local Environmental Health Officer (or the responsible officer for pollution), with the aim of resolving how potential public nuisances might be effectively controlled, so that agreed measures might be built into the operating schedule as mutually acceptable conditions. In this way representations from the Environmental Health Officer may be avoided. The Council also encourages local mediation in certain situations that might be amenable to such a solution.

LP20.6 Many, but not all, public nuisance issues can be resolved through reasonably practical and effective control measures. If such measures are not detailed in the operating schedule accompanying the application, and if then a local hearing takes place, the application may well be viewed unfavourably by the Licensing Committee.

LP20.7 Licensed premises have a significant potential to impact adversely on communities through public nuisances that arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

LP20.8 The Licensing Authority intends to interpret “public nuisance” in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area. Applicants need to be clear that the Licensing Authority will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Conversely, premises for which it can be demonstrated they have effective measures planned to prevent public nuisance, may be suitable for 24-hour opening.

LP21.0 PUBLIC SAFETY

LP21.1 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. To this end, applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.

7. Other Relevant Information:

None

8. Determination of application for a Premises Licence - Licensing Act 2003:

General Duties of the Licensing Authority:

Section 4 of the Licensing Act 2003 states:

1. A licensing authority must carry out its functions under this Act (licensing functions) with a view to promoting the licensing objectives.
2. The Licensing Objectives are:
 - The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
3. In carrying out its licensing functions, a licensing authority must also have regard to –
 - a) its licensing statement (policy) published under section 5, and
 - b) any guidance issued by the Secretary of State under section 182.

8.1 Section 18 Licensing Act 2003 states that in determining an application for a premises licence where relevant representations are made the Licensing Authority must hold a hearing to consider them. Sub section (6) defines a relevant representation as being one which:-

1. is about the likely effect of the grant of the premises licence on promotion of the licensing objectives
2. meets the requirements of sub section (7)

3. If they relate to the identity of the person named in the application as the proposed designated premises supervisor, meets the requirements of sub section (9)
4. is not an excluded representation by virtue of section 32 (restriction on making representations following issue of a provisional statement)

The requirements of sub section (7) are:-

- a) that the representations were made by a responsible authority or “other person” within the prescribed period
- b) that they have not been withdrawn and
- c) in the case of representations made by a person who is not a Responsible Authority, that they are not in the opinion of the licensing authority, frivolous or vexatious.

Section 18(3)(b) states:

“Having regard to the representations, the Committee can take such steps as mentioned in sub section (4) as it considers appropriate for the promotion of the licensing objectives”

Sub Section (4) goes on to say, “The steps are:-

1. to grant the licence subject to:-
 - a) with conditions consistent with the operating schedule accompanying the application, modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and
 - b) any condition which must under section 19,20, or 21 be included on the licence.
2. to exclude from the scope of the licence any of the licensable activities, to which the application relates.
3. to refuse to specify a person in the licence as the premises supervisor,
4. to reject the application.”

Statutory Guidance.

Paragraph 9.39:

The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.

Paragraph 9.40:

Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should

publish hearings procedures in full on its website to ensure that those involved have the most current information.

Appendix 1:	Application as made.
Appendix 2:	Valid Representations Received
Appendix 3:	Location Plan
Appendix 4:	Planning Appeal Decision