

## PART A

**Report to:** Licensing Sub-Committee  
**Date of meeting:** 7 April 2016  
**Report of:** Head of Community and Customer Services  
**Title:** Application to vary a Premises Licence  
143 Bar, 143 The Parade, High Street, Watford WD17 1NA  
16/00268/LAPRE

### 1.0 SUMMARY

1.1 An application has been received from Mr Martin White to vary the existing Premises Licence for 143 Bar. The application is seeking to:

- increase the permitted hours for alcohol sales and the provision of late night refreshment on Fridays and Saturdays;
- vary the permitted hours for alcohol sales on Sundays to allow alcohol to be served earlier;
- permit extended hours for bank holidays, Sundays prior to bank holidays, and Christmas Eve;
- vary a condition regarding access by children to the premises

Two representations have been received from, one from a local resident, and one from a residents' association.

### 2.0 RECOMMENDATIONS

2.1 That the Licensing Sub-Committee determines whether to grant the application (amended as appropriate for the promotion of the licensing objectives) as set out in the report.

#### **Contact Officer:**

For further information on this report please contact: Austen Young (Licensing Officer) telephone 01923 278474: email: [austen.young@watford.gov.uk](mailto:austen.young@watford.gov.uk)

**Report approved by: Alan Gough, Head of Community and Customer Services**

### 3.0 APPLICATION

3.1 Type of authorisation applied for  
Variation of Premises Licence.

3.2 Description of premises

The 143 Bar is a premises situated within the town centre as defined by Policy LP3. The premises operate as a 'public house, wine bar, or other drinking establishment' as defined by Policy LP2.

3.3 A map of the location of the premises is attached at appendix 1.  
A plan showing the layout of the premises is attached at appendix 2.

3.4 Licensable activities

No additional licensable activities have been requested as part of this application.

The following activities are permitted by the existing licence:

<b>Licensable activity</b>	<b>Permitted now</b>
Plays	
Films	
Indoor sporting events	
Boxing or wrestling entertainment	
Live music	
Recorded music	✓
Performances of dance	
Entertainment of a similar description to live or recorded music, or dance	
Provision of late night refreshment	✓
Sale of alcohol for consumption on the premises	✓
Sale of alcohol for consumption off the premises	

3.5 Licensable hours

The existing and proposed hours for licensable activities are detailed in the following table:

	<b>Existing hours for sale of alcohol</b>	<b>Proposed hours for sale of alcohol</b>	<b>Existing hours for late night refreshment</b>	<b>Proposed hours for late night refreshment</b>
Monday	10:00 - 23:59	No change	23:00 - 00:00	No change
Tuesday	10:00 - 23:59	No change	23:00 - 00:00	No change
Wednesday	10:00 - 23:59	No change	23:00 - 00:00	No change
Thursday	10:00 - 23:59	No change	23:00 - 00:00	No change
Friday	10:00 - 23:59	10:00 - 01:00	23:00 - 00:00	23:00 - 01:00

Saturday	10:00 - 23:59	10:00 - 01:00	23:00 - 00:00	23:00 - 01:00
Sunday	12:00 - 23:30	11:00 - 23:30	23:00 - 23:30	No change
Good Friday	12:00 - 23:30	11:00 - 01:00	Not specified - normal hours apply	23:00 - 01:00
Christmas Day (if not a Sunday)	11:00 - 23:30	11:00 - 01:00	Not specified - normal hours apply	23:00 - 01:00
Christmas Day (if a Sunday)	11:00 - 23:59	11:00 - 01:00	Not specified - normal hours apply	23:00 - 01:00
Christmas Eve, bank holidays, and Sundays prior to bank holidays	Not specified - normal hours apply	11:00 - 01:00	Not specified - normal hours apply	23:00 - 01:00

3.6 The variation proposes that the premises closes 30 minutes after the end of the sale of alcohol and the provision of late night refreshment, meaning that there is a drinking-up time of 30 minutes.

3.7 The premises currently benefits from extensions on New Year's Eve and the ability to play recorded music 24 hours a day. These hours and activities are not subject to change.

3.8 A copy of the existing licence is attached at appendix 3.

#### 4.0 **BACKGROUND INFORMATION**

4.1 The following background information is known about these premises:

##### 4.2 Designated premises supervisor

Mr Martin White, since 10 December 2009.

##### 4.3 Current licences held

The premises holds a current licence with reference 11/00197/LAPRE (see appendix 3). This licence has been in force since 14 April 2011, when it was varied to add the licensable activity of the provision of facilities for dancing. This activity was subsequently deregulated by the Live Music Act 2012, and is no longer a licensable activity and so does not appear on the existing licence. Mr White has been the licence holder here since 10 December 2009 when the licence was transferred to Mr White from the previous licence holders.

4.4 The premises have also regularly benefited from extended hours by using temporary event notices (TENs). The premises obtained 12 TENs in 2015, 11 TENs in 2014, 11 TENs in 2013, 8 TENs in 2012, and 10 TENs in 2011. Members are reminded that the maximum number of TENs that a premises could obtain prior to January 2016 was 12. This limit increased in January to 15. All bar one TEN has been to allow alcohol sales until 01:00. The exception was a TEN for 24 November 2013, which was to allow alcohol sales until 02:30.

4.5 Closing date for representations

11 March 2016

4.6 Public notice published in newspaper

12 February 2016

4.7 Visits and Enforcement action

There have been no complaints to the licensing authority about this premises since the last application which was considered in April 2011, and therefore there has been no need to visit the premises or undertake any enforcement action.

4.8 Environmental health did receive two separate complaints about this premises in September 2011 and December 2013. Both complaints were from local residents and related to noise nuisance. No formal action was taken against the premises in either case. There was insufficient evidence to warrant any action with regards to the complaint from September 2011. When notified of the complaint of December 2013, the premises worked with an environmental health officer to address this issue. There have been no other complaints. Neither resident who submitted these complaints have objected to this application, although only one still resides near to the premises.

5.0 **PROMOTION OF LICENSING OBJECTIVES.**

5.1 The operating schedule that allows the applicant to describe any additional steps they intend to take to promote the four licensing objectives as a result of the proposed variation is attached at appendix 4.

5.2 This operating schedule includes a request to amend an existing condition regarding children, to allow them to stay on the premises for longer. The request is that children under the age of 16 can access the premises until 22:00 (except when attending private functions where no restrictions apply).

5.3 The premises is already subject to conditions on their existing licence. The existing licence is attached at appendix 3.

6.0 **REPRESENTATIONS**

6.1 Responsible Authorities

No representations were received from any responsible authority.

6.2 Residents

Representations have been received from the residents listed below.

6.3

Reference	Name	Address	Representative Body (Yes/No)	Relevance to which licensing objective(s)

A	Central Town Residents' Association & Neighbourhood Watch	c/o 31 St Johns Road	Yes	Public nuisance
B	Mr Irfan Younas	141A The Parade, High Street	No	Public nuisance

6.4 These representations are attached at appendix 5.

6.5 The representations are both concerned with the potential of adding to the existing noise and nuisance experienced within The Parade, and how extended hours will mean more people going in and out of the premises, and keeping them in the town centre for longer. The Central Town Residents' Association also refer to previous noise complaints made by their residents.

## 7.0 **POLICY CONSIDERATIONS**

7.1 The following provisions of the Licensing Act 2003 apply to this application:

- Section 34 and 35 (Variation of licences):  
Section 34 details how a licence holder can make an application. Section 35 details how determinations will be made when an application is made under section 34.
- The Licensing Act 2003 (Hearings) Regulations 2005 (as amended)  
These regulations detail how hearings should be conducted to determine applications submitted under the Licensing Act.

## 7.2 Statutory guidance

The following provisions of the Secretary of State's guidance (March 2015) apply to this application:

- Paragraphs 8.33 - 8.41:  
These paragraphs explain how steps should be taken to promote the licensing objectives. It is for the Sub-Committee to decide in light of this guidance whether the measures offered by the applicant are appropriate to promote the licensing objectives. It is equally important to use the same measure when looking at any steps requested by a party making representations against an application.
- Paragraphs 9.30 – 9.40:  
These paragraphs explain that hearings should be focussed on the steps considered appropriate to the promotion of the licensing objectives, as well as how appropriate weight must be attributed to the steps to promote the licensing objectives, the representations presented by all parties, the statutory guidance, and the licensing authority's statement of licensing policy.

- Paragraphs 9.41 – 9.43  
These paragraphs explain that when determining applications, the authority's determination should be evidence-based, as well as how to assess if a step is 'appropriate' for the promotion of the licensing objectives.
- Chapter 10:  
This chapter looks at best practice in relation to conditions that may be attached to a premises licence should it be believed that such conditions are appropriate to promote the licensing objectives. Any additional conditions requested by any party should be considered with reference to this chapter.

### 7.3 Statement of licensing policy

The following paragraphs of the licensing authority's statement of licensing policy apply to this application:

- Policy LP1 – Premises Definitions  
Under this policy, the premises are best defined as a public house, wine bar, or other drinking establishment.
- Policy LP2 – Location and Operation of Premises  
This policy sets out the approach to licensing premises when relevant representations are received, notwithstanding that each application is considered on its own merits. This premises is situated within the town centre, and as such this policy states that public houses, wine bars, or other drinking establishments 'will generally be allowed alcohol sales to midnight only, and until 10:30pm on Sunday (other than for special occasions)'.
- Policy LP3 – Creating a Family Friendly Town Centre  
This is a special policy which applies to this part of the town centre, which is intended to be strictly applied.

Paragraph 1 of LP3 states that 'when we have received relevant representations to an application for a pub, night-club or bar (as defined in LP1) in this part of the town centre, our starting point will be to refuse the application'.

Paragraph 4 of LP3 states that 'where relevant representations have been received, we will consider granting applications which limit the hours of operation to those set out in policy LP2 unless exceptions to LP3 can be shown'.

Paragraph 6 of LP3 states that 'where relevant representations have been received against the sale of alcohol after 10 pm and exceptions can be shown, we will consider whether premises shall be required to demonstrate they have an effective dispersal management plan in place; to install a closed-circuit television system that meets the reasonable requirements of Hertfordshire Constabulary; installing an

electronic identification entry system; and to have use of a Pubwatch radio’.

#### Exceptions to LP3

1. Exceptions will not be made on the grounds that:

- (1) the building design is of a high standard; we would expect that all applicants will want to ensure the highest design standards possible;
- (2) that the applicant is of good character. It is a legal requirement that premises selling alcohol must be under the management of a designated premises supervisor, who must themselves hold a personal licence to sell alcohol;
- (3) the premises are small. Even small premises can contribute to crime, disorder and nuisance.

2. We will consider whether to grant an application, even when relevant representations have been received, if:

- (1) the application contributes to the family-friendly development of the town centre; or
- (2) to effect a real reduction in capacity of alcohol sales; or
- (3) to replace a vertical drinking establishment with seated consumption and waiter service.

In any case where an applicant wishes an exception to be considered, the responsibility is with them to show why it should be considered and not on the Sub-Committee to show why an exception should not be made

- Policy LP8 (Prevention of Public Nuisance):  
Under this policy the committee will consider any necessary measures to deal with the potential for public nuisance and/or anti-social behaviour where relevant representations have been received.
- Policy LP11 (Representations against Applications):  
This policy recommends the type of information that should be included in a representation. It also explains how representations will be dealt with.

7.4 The Sub-Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority’s responsibility to co-operate in the reduction of crime and disorder in the Borough.

7.5 The Sub-Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

## 8.0 **CONDITIONS**

- 8.1 Members will be aware that an operating schedule forms part of the licensing process. This document outlines what activities are proposed, the opening hours, and how the activities will be managed particularly in respect of the licensing objectives.
- 8.2 The most critical part of the operating schedule is the steps taken by the applicant to promote the four licensing objectives. Applicants are always reminded to take careful consideration as to what is entered in this section as whatever is proposed will be translated as conditions on the licence.
- 8.3 Applicants should give consideration to the local area and reflect this in their application. It should demonstrate an awareness of the local community, local crime and disorder issues, and the local environment.
- 8.4 Conditions consistent with the operating schedule  
Officers do not propose to attach any additional conditions from the applicant's operating schedule. This is with consideration to the history of the premises that there are existing conditions on the licence.
- 8.5 However, officers do propose that condition 4 of annex 2 of the existing licence is amended to be consistent with the applicant's operating schedule as no concerns have been raised with regards to this element of the application. It is proposed that the condition read as follows:  
  
"No children under the age of 16 can enter or remain on the premises after 22:00 on any day, unless they are attending a private function"
- 8.6 Conditions proposed by responsible authorities  
There were no conditions proposed by any responsible authority.
- 8.7 Conditions proposed by objectors  
There are no proposed conditions contained within the representations.
- 8.8 Pool of Model Conditions  
In addition to any conditions proposed by the responsible authorities or interested parties, the licensing authority also has its own pool of model conditions that may help mitigate the concerns raised in the representations.
- 8.9 Officers do not believe that there are any conditions within the pool of model conditions which would be appropriate in this case. The representations do refer to previous issues with noise and nuisance from this premises, albeit historic incidents. The premises did work with the environmental health authority to implement measures to control the noise in response to the last complaint, and no further complaints have been received.
- 8.10 This does not restrict the Sub-Committee's power to attach conditions from the pool (amended or otherwise) if they consider that they are appropriate, proportionate, justifiable and within the applicant's power to comply with.



8.11 A draft Premises Licence which reflects this application and the conditions which are proposed in the preceding paragraphs is attached at appendix 6.

## 9.0 OFFICERS' OBSERVATIONS

9.1 As stated above, policy LP3 is intended to be applied strictly. Representations have been received about an application to extend the hours for the sale of alcohol, and so the Sub-Committee's starting point ought to be to refuse the application unless the applicant can show they should be considered an exception.

9.2 To demonstrate whether they are an exception, policy LP3 sets out three tests:

- (1) the application contributes to the family-friendly development of the town centre; or
- (2) to effect a real reduction in capacity of alcohol sales; or
- (3) to replace a vertical drinking establishment with seated consumption and waiter service.

9.3 Members are able to depart from policy in circumstances where there are justifiable reasons for doing so, and after considering the individual merits of the application before them.

9.4 In considering whether to depart from policy, Members may wish to take account of the absence of any representations from the responsible authorities, and the fact that the operator has an established history, having been at the premises since 2009. It is unusual for a town centre venue to have such consistency in management and operation, and this has allowed the responsible authorities to have a greater understanding of the premises and identify any issues. The premises have also obtained numerous TENs for the hours requested by this application without incident and without any TEN being refused. The majority of these TENs are for private parties, allowing greater control over entry and management of the venue. The premises are primarily marketed at an older clientele than other venues within the town, bringing more diversity to the night-time economy, and as stated in their operating schedule, does not engage in pricing promotions.

9.5 The representations against this application makes reference to how there is existing noise nuisance from The Parade. There is no indication that this nuisance is from this particular premises. As The Parade is a public highway Members are also reminded of paragraph 2.20 of the statutory guidance, which states, in relation to nuisance (including noise nuisance):

"Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to

place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.”

- 9.6 The officers’ observations and the comments regarding the representations are in no way meant to bind Members. They are for guidance only and Members may attach whatever weight they see fit.
- 9.7 The Sub-Committee have a duty to “have regard” to the licensing policy but are not bound by it. However, should Members wish to depart from the policy then detailed reasons for this must be given as part of any decision.
- 9.8 In determining this application, the Sub-Committee must have regard to the representations and take such steps as it considers appropriate for the promotion of licensing objectives. The steps are:
- (a) grant the application in full.
  - (b) modify the conditions of the licence volunteered by the applicant in the operating schedule, by altering or omitting or adding them.
  - (c) reject the whole or part of the application.

#### Appendices

Appendix 1 – location plan

Appendix 2 – plan of premises

Appendix 3 – current licence (11/00197/LAPRE)

Appendix 4 – operating schedule

Appendix 5A – representation from Central Town Residents’ Association

Appendix 5B – representation from Mr Younas

Appendix 6 – draft licence (16/00268/LAPRE)

#### Background Papers

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

Licensing Act 2003

Amended guidance issued under section 182 of the Licensing Act 2003 (Home Office March 2015)

Licensing Act (Hearings) Regulations 2005

Watford Borough Council Licensing Policy (November 2013 – November 2018)

Watford Borough Council Pool of Model Conditions (March 2013)

#### File Reference

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