

PART A

Report to: Licensing Sub-Committee
Date of meeting: 25 April 2016
Report of: Head of Community and Customer Services
Title: Application for new premises licence:
Gabriel, 69 Vicarage Road Watford Herts WD18 0EB
16/00369/LAPRE

1.0 SUMMARY

- 1.1 An application has been received from Mr Ahmed Arfan for a new premises licence in respect of Gabriel, 69 Vicarage Road, Watford to allow alcohol sales for consumption on the premises. One representation signed by two people has been received from local residents.

2.0 RECOMMENDATIONS

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

Contact Officer:

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

3.0 APPLICATION

3.1 Type of authorisation applied for
Grant of a new Premises Licence.

3.2 Description of premises from the application form
Gabriel's Bakery is a café. We have tables and chairs for our costumers. We serve breakfast, salads, pastas, and other snacks. We also serve tea, coffee and soft drinks. We would like to be able to serve a glass of wine or a beer for costumers who are having food only.

3.3 A map of the location of the premises is attached at appendix 1.

3.4 The premises are a small retail unit on the pedestrianised area of the Vicarage Road precinct local shopping parade, with residential accommodation nearby. The submitted plan shows a total of two tables with few chairs.

3.5 The plan of the premises is attached at appendix 2.

3.6 Licensable activities

Licensable activity	Permitted now	Proposed
Plays		
Films		
Indoor sports events		
Boxing or wrestling entertainment		
Live music		
Recorded music		
Performances of dance		
Anything of a similar description to live or recorded music or dance		
Provision of facilities for making music		
Provision of facilities for dancing		
Provision of facilities of a similar description to making music or dancing		
Provision of late night refreshment		✓
Sale by retail of alcohol for consumption on the premises		✓
Sale by retail of alcohol for consumption off the premises		

3.7 Licensable hours

	Proposed hours for alcohol sale	Proposed Late Night Refreshment	Proposed opening times
Monday-Sunday	10:00 – 23:00	23:00 – 23:30	07:00 - 23:30

4.0 **BACKGROUND INFORMATION**

4.1 The following background information is known about these premises:

4.2 Designated premises supervisor

The licensing authority has not yet been advised of the personal licence number of the proposed designated premises supervisor. If the premises licence is granted no sales of alcohol will be permitted until full details of the nominated DPS has been provided.

4.3 Current licences held

There are no previous licences associated with the premises. The applicant has previously been given temporary event notices to allow the sale of alcohol for consumption on the premises only during the periods of 22-27 March 2016 and 7-13 April 2016.

4.4 Closing date for representations

5 April 2016

4.5 Public notice published in newspaper

18 March 2016

4.6 Visits and Enforcement action

None

5.0 **PROMOTION OF LICENSING OBJECTIVES**

5.1 The applicant's proposed operating schedule is set out at appendix 3.

6.0 **RESPONSIBLE AUTHORITIES**

6.1 No representations were received from any responsible authority.

7.0 **INTERESTED PARTIES**

7.1 One representation signed by two people (attached at appendix 4) has been received from interested parties.

Name	Address	Representative Body (Yes/No)	Relevance to which licensing objective
Miss C Gibson and Mr J Woolley	71 Vicarage Road Watford Herts WD18 0EJ	No	Public nuisance and crime and disorder

7.2 This representation is from two members of the public living nearby to the premises. Their strong concerns are that there have already been problems associated with other premises in the area. They also refer to street drinkers and young people drinking in the vicinity of the premises causing "excessive noise"

and anti-social activity.

- 7.3 The Sub-Committee should note that the presence of other licensed premises in the locality is not a factor that can be taken into account when making a determination. Any application should be considered on its own merits, and any decision made by Members shall be because that action is appropriate for the promotion of the licensing objectives.

8.0 **POLICY CONSIDERATIONS**

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

- Sections 17 and 18 (Application for premises licence):
These sections set out how an application for a premises licence should be determined where valid representations have been received.
- Sections 19 and 19A (Mandatory conditions)
Section 19 details the mandatory conditions that would apply if the sub-committee was minded to grant a licence authorising the supply of alcohol. Section 19A permits the Secretary of State to specify additional mandatory conditions which apply to all Premises Licences.
- 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.

8.2 Statutory guidance

The following provisions of the March 2015 statutory guidance, to which the licensing authority must pay regard, 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.

8.3 Statement of licensing policy

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

- Policy LP1 – Premises Definitions
The premises appear to meet the criteria for a café-bar under this policy.
- Policy LP2 – Location and Operation of Premises
Café-bars will, in the absence of any relevant representations and according to the merits of any individual case, generally be granted the hours and licensable activities according to the application.
- Policy LP6 – Prevention of Crime and Disorder
Under this policy the Sub-Committee will consider any necessary measures to deal with the potential for crime and disorder where relevant representations have been received.
- Policy LP8 – Prevention of Public Nuisance
Under this policy the Sub-Committee will consider any appropriate measures to deal with the potential for public nuisance and/or anti-social behaviour where relevant representations have been received.
- Policy LP11 – Representations About Applications
This policy recommends the type of information that should be included in a representation. It also explains how representations will be dealt with.

8.4 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.

8.5 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.

9.0 **CONDITIONS**

9.1 Members will be aware that an operating schedule forms part of the licensing process. This document outlines what activities are proposed, the opening hours,

how the activities will be managed particularly in respect of the licensing objectives.

- 9.2 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.
- 9.3 Applicants should give consideration to the local area and reflect this in their application (see the statutory guidance at paragraphs 8.33 – 8.36). It should demonstrate an awareness of the local community, local crime and disorder issues, and the local environment.
- 9.4 Officers propose that the following conditions are consistent with the operating schedule submitted by the applicant, and appropriate for the promotion of the licensing objectives

9.5 General:

1. The supply of alcohol at the premises shall only be to persons who have ordered food and shall be for consumption by such persons as ancillary to their food.

1. Staff will receive training regarding the four licensing objectives. These training records are to be maintained at the premises.

Prevention of Crime and Disorder:

2. The premises shall install and maintain a comprehensive CCTV system. All recordings shall be stored for a minimum period of 31 days.

3. The Premises Licence holder shall ensure that a staff member who is conversant with the operation of the CCTV shall be on the premises at all times when the premises is open to the public.

4. The Premises Licence holder shall display and maintain signage within the premises which states that 'Customers shall not be permitted to take any open bottles or cans outside the premises'.

Prevention of Public Nuisance:

5. Notices shall be prominently displayed at all exits requesting customers to respect the needs of local neighbours and leave the area quietly.

Public Safety:

No specific conditions

Protection of Children from Harm:

No specific conditions

These conditions are contained within the draft licence attached at appendix 5.

9.6 Conditions proposed by Responsible Authorities

None

9.7 Pool of Model Conditions

The licensing authority has its own pool of model conditions. Officers do not believe that there are any conditions contained within the pool which would help to address the concerns in the representations. This is also with consideration to the conditions which have been volunteered.

- 9.8 This does not restrict the Sub-Committee's power to attach conditions from the pool of model conditions (amended or otherwise) if they consider that they appropriate, proportionate, justifiable and within the applicant's power to comply with.

10.0 **OFFICERS' OBSERVATIONS**

- 10.1 The representation refers to existing disturbances and public nuisance in the area. However it is not stated if these disturbances are currently caused by the premises which is the subject of this application. Members should be wary about refusing this application or imposing conditions unless they are satisfied that there is a direct link between Gabriel and the disturbances, anti-social behaviour and nuisance mentioned in the representations, and that their actions are appropriate for the promotion of the licensing objectives.
- 10.2 The Sub Committee should be aware that issues such as litter, antisocial behaviour etc should be considered as matters of personal responsibility and the extent to which the applicant can control this is limited. In the operating schedule the applicant has proposed steps to address litter and rubbish concerns by stating that the staff shall clear the front of the premises during the daytime on a regular basis. However the members may wish to consider attaching a condition to this effect and which clearly specifies the area to be cleared. Any such condition should also state that the rubbish collected in this manner shall be disposed off as trade waste.
- 10.3 The representation has raised issues that will potentially arise whether the licence is granted or not. Issues such as antisocial behaviour, noise and children playing in the precinct area should be considered as matters of personal responsibility and the extent to which the applicant, or any other premises, can control them is limited. The precinct area is a public space for general use. Some of these issues are already occurring and any measures may prove hard to enforce. Paragraph 2.20 of the statutory guidance clearly states:

“ 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.”

- 10.4 The Sub Committee are asked to note that the applicant, in the operating schedule, has volunteered a condition to address the noise nuisance concern by stating that the customers shall be reminded by way of a notice at the exit to the premises to leave the premises quietly and to respect the neighbours.
- 10.5 The objectors have raised the issue of parking and cars blocking the residential properties. For the Sub-Committee to accept this as a valid ground for objection, it must be satisfied that parking and blocking the pavements is related to the current use of the applicant's premises and that allowing this premises to be used for licensable activities would have a direct further impact on this situation. There is no evidence provided to suggest that this premises is the sole cause of parking issues, and Members are reminded that there are a mixture of residential and commercial units within this locality. There is already primary legislation in force that can be used to deal with any concerns relating to parking and obstructions, and so in order to avoid statutory duplication it may not be appropriate for the Sub-Committee to consider attaching conditions relating to parking.
- 10.6 The objectors have also highlighted the use of pavement and the public seating outside the premises being used for smoking and drinking. The Sub-Committee should note that the applicant has applied to sell alcohol for consumption on the premises only and that there has been no application for a pavement licence to allow tables and chairs to be placed outside of this premises. Any application for a pavement licence would be determined on its own merits and under a separate policy. However, Members may wish to question the applicant whether there is any provision for a smoking area.
- 10.7 The objectors have strong concerns that the grant of the proposed licensable activities would further increase the public nuisance in the area. Members may wish to question whether the applicant has any intention of using his business as a take-away as such a provision might have an impact on the number of people using the precinct area as patrons coming and going from the premises.
- 10.8 The representation also highlights the impact of licensable activities on the streets. The applicant has addressed the drinking on the streets and pavement concern by only requesting a licence which permits alcohol to be sold for consumption on the premises only.
- 10.9 The Council will consider all applications on their merit and can not consider whether there are 'enough' premises or the 'need' for premises as a relevant factor to licensing.
- 10.10 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.

10.11 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) refuse the whole or part of the application.

Appendices

Appendix 1 - map of the premises' location

Appendix 2 - plan of the premises

Appendix 3 – operating schedule

Appendix 4 – representations from other persons

Appendix 5 – draft premises licence

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

Revised guidance issued under section 182 of the Licensing Act 2003 (March 2015)

Licensing Act (Hearings) Regulations 2005

Watford Borough Council Licensing Policy (November 2013)

Watford Borough Council Pool of Model Conditions (March 2013)

File Reference

Gabriel