

## PART A

**Report to:** Licensing Sub Committee  
**Date of meeting:** 1 June 2017  
**Report of:** Head of Community & Environmental Services  
**Title:** Application for a new premises licence (17/00449/LAPRE)  
Platform, Unit 1 and Unit 2, Junction Court  
9 Station Road, Watford, WD17 1AP

### 1.0 SUMMARY

- 1.1 An application has been received from Darby Leisure Ltd for a new premises licence in respect of Platform, Unit 1 and Unit 2 Junction Court, to allow alcohol sales for consumption on the premises. One relevant representation has been received from Environmental Health as a Responsible Authority.

### 2.0 RECOMMENDATIONS

- 2.1 That the Licensing Sub Committee determines whether to grant the application as requested or amend as appropriate for the promotion of licensing objectives.

#### **Contact Officer:**

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**Report approved by: *Alan Gough, Head of Community & Environmental Services***

### 3.0 APPLICATION

#### 3.1 Type of authorisation applied for

Application for a new premises licence.

#### 3.2 Description of premises

The premises are described on the application as follows:

The premises, trading as Platform, are proposed to be a luxury coffee and wine bar in a new build five storey structure with mixed use of both commercial and residential. The premises will operate from part of the ground floor and part of the first floor with a capacity of 74 on each floor.

#### 3.3 Under LP1 of Watford Borough Council's Licensing policy, which relates to premises definitions, a wine bar is defined as being:

'Primarily for the sale of alcohol and food for consumption on the premises, and which may include other licensable activities. Will include a "drinking up period" between the last sale of alcohol and the closing time of the premises'.

#### 3.4 The premises are located on Station Road surrounded by both residential and commercial properties, with Watford Junction Train Station, approximately 60 metres away from the premises. Under Policy LP2 which deals with the location and operation of premises, this area is classed as a residential area.

#### 3.5 Policy LP2 states that wine bars in residential areas will generally be granted alcohol sales to midnight only (other than for special occasions). It is therefore noted that the proposed hours are within the hours suggested in this policy.

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

#### 3.7 A plan showing the layout of the premises is attached at appendix 2.

#### 3.8 Licensable activities

This application is requesting permission to provide the following licensable activities:

Licensable activity	Requested
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	

### 3.9 Licensable hours

The hours proposed in this application were amended following discussions between the applicant and the police. The discussions resulted in the requested hours for alcohol sales and opening hours being shortened by 30 minutes on Sundays, Christmas Eve and New Year's Eve. The agreed hours are shown below:

<b>Day</b>	<b>On sale of alcohol hours</b>	<b>Opening hours</b>
Monday	11:00 – 23:00	06:00 – 23:30
Tuesday	11:00 – 23:00	06:00 – 23:30
Wednesday	11:00 – 23:00	06:00 – 23:30
Thursday	11:00 – 23:00	06:00 – 23:30
Friday	11:00 – 00:00	06:00 – 00:30
Saturday	11:00 – 00:00	06:30 – 00:30
Sunday	11:00 – 22:30	06:30 – 23:00

### 3.10 In addition to the times listed above the applicant also requests the following non-standard hours:

<b>Non Standard Days</b>	<b>On sale - alcohol hours</b>	<b>Opening hours</b>
Christmas Eve	11:00 – 01:00	06:00 – 01:30
New Year's Eve	11:00 – 01:00	06:00 – 01:30

## 4.0 **BACKGROUND INFORMATION**

### 4.1 The following background information is known about this premises:

### 4.2 Proposed Designated Premises Supervisor

Mr David Darby, who holds personal licence reference number 18875 from London Borough of Havering, is the proposed premises supervisor.

4.3 Current licences held  
None.

4.4 Closing date for representations  
5 May 2017.

4.5 Public notice published in newspaper  
14 April 2017.

4.6 Visits and Enforcement action  
The premises does not currently benefit from a licence so has not been subject to any visits or enforcement action.

#### 5.0 **PROMOTION OF LICENSING OBJECTIVES.**

The operating schedule submitted by the applicant to describe the steps that they intend to take to promote the four licensing objectives is attached at appendix 3.

#### 6.0 **REPRESENTATIONS**

6.1 Responsible Authorities  
Environmental Health has submitted representations on the grounds of prevention of public nuisance. These representations are attached at a appendix 4.

6.2 No other responsible authorities have made representations against this application. However, the Police have refrained from doing so on the basis of the applicant agreeing to revised hours and additional conditions.

#### 7.0 **POLICY CONSIDERATIONS**

7.1 Statutory guidance  
The application was received on 7 April 2017 therefore the following provisions of the Secretary of State's guidance (April 2017) apply to this application:

- Paragraphs 8.38 – 8.41  
The paragraphs explain how steps should be taken to promote the

licensing objectives. It is for the Sub-Committee to decide in the 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 step requested by a party making representations against an application.

- Paragraphs 9.37 – 9.38

These paragraphs explain that hearings should be focussed on the steps considered appropriate to the promotion of 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 9.43 -9.44

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.

## 7.2 Statement of licensing policy

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

- **Policy LP1 – Premises Definitions**

In accordance with the information submitted with the application, officers would describe the premises as a 'wine bar'.

- **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.

- **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.

7.3 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.

7.4 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 licence application. This part of the application details how the activities will be managed to promote the licensing objectives.

8.2 Applicants are advised to carefully consider what is entered in this section as whatever is proposed will be translated as conditions on the licence. Often the wording proposed by applicants is unenforceable so suggested conditions will be amended by officers to reflect the applicant's intent whilst ensuring they are enforceable.

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  
A number of conditions specified by the applicant in the operating schedule, which will assist in promoting the licensing objectives, are detailed on the draft licence at appendix 5.

8.5 Conditions agreed between applicant and responsible authorities  
Further conditions were agreed by the Police and the applicant and as a result the Police agreed not to submit a representation in respect of this application. In accordance with the conditions detailed on the applicants operating schedule, the wording of the conditions agreed with the Police has been amended by officers to ensure enforceability:

1. The supply of alcohol shall be ancillary to the supply of food.
2. There shall be a personal licence holder on duty on the premises at all

times when alcohol is offered for sale.

3. Door staff shall be employed on the premises on Friday and Saturday evenings after 20:00 hours at a ratio of one member of door staff for every 75 customers or part thereof present on the premises.
4. An incident log shall be kept at the premises and details shall be entered in the log of all incidents of violence, disorder, anti-social behaviour, ejection of persons from the premises, refusal of entry of persons to the premises, theft, evidence of drug use or drug confiscation and any other crime taking place within the premises or outside of the premises where staff and/or customers of the premises are involved. The incident log shall be made available on request to an authorised officer of the licensing authority or police upon request. Waiter/waitress service will be provided throughout the hours of licensable activities on both the ground and first floor of the premises.

#### 8.6 Pool of Model Conditions

In addition to conditions proposed by the responsible authorities or objectors, the licensing authority also has its own pool of model conditions that may help mitigate the concerns raised in the representations.

The proposed and agreed conditions do 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.

#### 8.7 Environmental Health Representation

The premises has 14 residential units located above the first floor.

Environmental Health is concerned that the noise associated with the licensable activity on the first floor will cause a noise nuisance to the residents above. As part of their representations, Environmental Health has proposed the following condition appropriate for the prevention of public nuisance attached at appendix 4.

"No licensable activity shall be provided on the first floor until suitable sound attenuation measures have been installed to the satisfaction of Environmental Health Officer of Watford Borough Council".

In addition to the representation submitted discussions have been held between Environmental Health and the applicant, where conditions regarding a prohibition on dancing, issues regarding disturbance from customers smoking outside, a limitation on background music only on the premises and the holding of an annual meeting with residents has been discussed. The applicant has not, at the time of writing this report formally agreed to the following conditions, but they have been included on the draft premises

licence and should be considered by members when determining this application:

1. No dancing will be permitted on the premises.
2. No more than five customers, including those leaving the premises to smoke, shall be permitted to be present on the forecourt of the premises at any one time.
3. No live or recorded music shall be played on the premises at a level where it constitutes entertainment. Music shall only be played at background levels.
4. The premises licence holder shall hold an annual meeting with the Platform Court residents in order to discuss any issues relating to noise, anti-social behaviour or any other matter of concern.

#### 8.8 Draft Premises Licence

A draft Premises Licence which reflects this application and the proposed conditions is attached at appendix 5.

#### 9.0 **Officers observations**

9.1 The applicant has agreed with the Police to a condition on the licence that the supply of alcohol shall be ancillary to the supply of food. In principle this condition is acceptable and means that customers would not be able to visit the premises simply to drink alcohol. However, the applicant has not applied to allow the provision of late night refreshment to take place on the premises. The effect of this is that hot food could not be served after 23:00 hours, so on Friday and Saturday evenings after 23:00 hours, only cold food could be supplied and the supply of alcohol could only take place ancillary to the supply of this food. It appears that the applicant may not have either understood or properly thought through the implications of this condition or has omitted to include on his application the supply of late night refreshment as a licensable activity. This issue has been drawn to the attention of the applicant by Licensing Officers.

9.2 Members may wish to question the applicant on the proposed operation of the premises in order to gain a greater understanding of the type of premises. Different types of operations have different risks associated with them. By clarifying the operation of the venue, this will assist Members in assessing the potential risk associated with the use of the premises, and in turn the risk of the premises to the promotion of the prevention of public nuisance licensing objective.

9.3 The Environmental Health representations against this application raise



concerns that there is a likelihood that noise associated with the licensable activity on the first floor will cause a nuisance to the residents of the flats above.

- 9.4 The main issue raised is the fact that the building is unsuitable for the proposed licensable activity as the building is more of a residential dwelling and that noise from patrons entering and leaving the premises is also inevitable. The Environmental Health Officer concluded that the information provided was insufficient and therefore it was not possible to determine the suitability of the sound insulation scheme. As a result of this the premises licence if granted with the proposed condition would not permit licensable activity, namely the sale of alcohol, on the first floor until an Environmental Health Officer was satisfied that suitable sound attenuation had been installed.
- 9.5 However, this would in no way limit the use of the first floor as the premises could sell alcohol on the ground floor and then allow patrons onto the first floor to consume the alcohol as consumption is not licensable. Members may wish to ask the Environmental Health Officer what he was seeking to achieve with the proposed condition and then, if it's believed appropriate, amend the wording to achieve that outcome.
- 9.6 The applicant has sought to address Environmental Health's concerns by submitting a number of measures recommended by an acoustics consultant 'The Sound Solution' to mitigate the potential noise breakout from the venue particularly in the direction of residential units. This is demonstrated in the Sound Solution report attached at Appendix 6.
- 9.7 On the 18 May 2017 a meeting took place between the applicant and Environmental Health Officer to discuss ways to mitigate the public nuisance concerns. The mediation seemed constructive and the officers are currently awaiting a report which the applicant agreed to produce.
- 9.8 Members will be aware that under the Council's Statement of Licensing Policy the Licensing Authority is determined to protect the amenity of residents in the vicinity of licensed premises. For these purposes 'vicinity' is taken to mean the immediate area around licensed premises where individual's residence or business is likely to be directly affected by disorder or nuisance occurring or potentially occurring on those premises or immediately outside.
- 9.9 Policy LP8 (Prevention of public nuisance) provides strict guidelines that in considering all licence applications where appropriate representations have been received the authority may impose conditions to prevent unnecessary

noise disturbance to residents as it considers appropriate. This may include sound proofing requirements, restrictions on times when music or other licensable activities may take place and may include technical restrictions or appropriate measures to restrict the use of the area to ensure that licensing objectives relating to prevention of public nuisance, crime and disorder and public safety are upheld.

- 9.10 In addition to the above LP8 sets out the following steps notwithstanding that each application will be considered on its own merits.

‘In considering licence applications...we will consider any necessary measure...having regard to all circumstances of the application including...the steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises. This will be of greater importance between 10pm and 7am than at other times of the day’.

Members should note that the applicant has proposed a few controls to promote the licensing objectives by restricting the take away food timings and agreeing to SIA licensed door staff on Friday and Saturday nights..

In making a decision the Committee shall as far as possible seek to establish the cause or causes of the concerns that the representations identify and need to consider what steps to implement

- 9.11 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 as they do the submissions of the applicant and objector.
- 9.12 The Sub-Committee are reminded that they 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.
- 9.13 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.  
add to or modify the proposed conditions.
  - (b) reject the whole or part of the application.

### Appendices

Appendix 1 – Map

Appendix 2 – Location of premises

Appendix 3 – Operating Schedule

Appendix 4 – Environmental Health Representations

Appendix 5 – Draft Premises Licence

Appendix 6 - The Sound Solution (Acoustics Report)

### 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 April 2017)

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

Watford Borough Council Pool of Model Conditions (March 2013)

### File Reference

Platform 9 Station Road