

PART A

Report to: Licensing Sub-Committee
Date of meeting: 3 February 2015
Report of: Head of Community and Customer Services
Title: Application for variation of a Premises Licence
Diamonds & Strings, 9 Market Street, Watford WD18 0PA
14/01703/LAPRE

1.0 SUMMARY

1.1 An application for a variation of a Premises Licence has been received from Punch Taverns Plc, the Premises Licence holders for Diamonds & Strings, 9 Market Street, Watford WD18 0PA.

The application seeks to extend the permitted hours during which the premises can offer licensable activities.

Two representations have been received from responsible authorities and which have not been withdrawn.

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:

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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 Variation of a Premises Licence

3.2 Description of premises

Diamonds & Strings is a premises which is situated within the Town Centre as defined by Policy LP3. The premises operate as a lap-dancing and strip club with a bar, and falls under the definition of a night-club under Policy LP2.

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

3.4 The licence plan showing the layout of the premises is attached at appendix 2.

3.5 Licensable activities

Licensable activity	Existing	Subject to Variation
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 late night refreshment	✓	✓
Sale by retail of alcohol for consumption on the premises	✓	✓
Sale by retail of alcohol for consumption off the premises	✓	✓

3.6 Licensable hours

The requested hours are detailed in the tables below. In summary the application is to:

- allow the provision of regulated entertainment from 0900 every day
- extend the hours for providing entertainment and late night refreshment until 0400 on Friday, Saturday, and any Bank Holiday Monday
- extend the hours for alcohol sales until 0330 on Friday, Saturday, and any Bank Holiday Monday
- extend the opening hours until 0400 on Friday, Saturday, and any Bank Holiday Monday

- reduce the hours for providing entertainment and late night refreshment to 0200 on Wednesday
- reduce the hours for the sale of alcohol to 0130 on Monday, Tuesday, and Wednesday
- reduce the opening hours to 0200 on Monday, Tuesday, and Wednesday
- make no changes to any permitted hours for Sunday

	Regulated Entertainment		Late Night Refreshment		Sale of Alcohol	
	Existing	Proposed	Existing	Proposed	Existing	Proposed
Monday	10:00 – 02:00	09:00 – 02:00	23:00 – 02:00	23:00 – 02:00	10:00 – 02:00	10:00 – 01:30
Tuesday	10:00 – 02:00	09:00 – 02:00	23:00 – 02:00	23:00 – 02:00	10:00 – 02:00	10:00 – 01:30
Wednesday	10:00 – 03:00	09:00 – 02:00	23:00 – 03:00	23:00 – 02:00	10:00 – 02:30	10:00 – 01:30
Thursday	10:00 – 03:00	09:00 – 03:00	23:00 – 03:00	23:00 – 03:00	10:00 – 02:30	10:00 – 02:30
Friday	10:00 – 03:00	09:00 – 04:00	23:00 – 03:00	23:00 – 04:00	10:00 – 02:30	10:00 – 03:30
Saturday	10:00 – 03:00	09:00 – 04:00	23:00 – 03:00	23:00 – 04:00	10:00 – 02:30	10:00 – 03:30
Sunday	12:00 – 23:30	12:00 – 23:30	23:00 – 23:30	23:00 – 23:30	10:00 – 23:30	10:00 – 23:30
Bank Holiday Monday	Normal Monday hours	09:00 – 04:00	Normal Monday hours	23:00 – 04:00	Normal Monday hours	10:00 – 03:30

	Opening Hours	
	Existing	Proposed
Monday	10:00 – 02:30	09:00 – 02:00
Tuesday	10:00 – 02:30	09:00 – 02:00
Wednesday	10:00 – 03:00	09:00 – 02:00
Thursday	10:00 – 03:00	09:00 – 03:00
Friday	10:00 – 03:00	09:00 – 04:00
Saturday	10:00 – 03:00	09:00 – 04:00
Sunday	10:00 – Midnight	10:00 – 23:30
Bank Holiday Monday	Normal Monday hours	09:00 – 04:00

- 3.7 Officers can advise that the Sexual Entertainment Venue licence for this premises allows the premises to offer lap-dancing, pole-dancing, and other such adult entertainments on this premises during the following hours:

Monday	09:00 – 02:00
Tuesday	09:00 – 02:00
Wednesday	09:00 – 02:00
Thursday	09:00 – 03:00
Friday	09:00 – 04:00
Saturday	09:00 – 04:00
Sunday	Closed
Bank Holiday Monday	09:00 – 04:00

4.0 **BACKGROUND INFORMATION**

- 4.1 The following background information is known about these premises:

4.2 Designated premises supervisor

Mr Naresh Mal since 12 December 2014.

4.3 Current licences held

The current licence is 12/01673/LAPRMV and was granted on 10 December 2012 following the grant of a minor variation. Prior to this, the premises has been licensed under the Licensing Act 2003 since November 2005 when the Act came into force, and was licensed prior to November 2005 under the Licensing Act 1964.

The premises also benefits from a Sexual Entertainment Venue licence, reference 14/00994/SEX. This licence, which is required to be renewed annually, has been in effect since 14 August 2014 and will expire on 14 August 2015 unless renewed.

4.4 Closing date for representations

6 January 2015

4.5 Public notice published in newspaper

12 December 2014

4.6 Visits and Enforcement action

Members may be aware that the premises has been investigated in the past by the Police and the licensing authority for potential breaches of conditions of both the Premises Licence and Sexual Entertainment Venue licence. Due to concerns raised by the Police, an application to renew the Sexual Entertainment Venue licence in 2013 was refused.

However, after satisfying the licensing authority and the Police that none of the management team who were in control of the premises during this time were involved with the premises any more, and with the acceptance of

additional conditions, the Sexual Entertainment Venue licence was allowed on appeal on 30 June 2014 and also subsequently transferred to the current operators. For the avoidance of doubt, the premises licence holder, Punch Taverns plc, is the landlord and leases the premises to the holder of the Sexual Entertainment Venue licence, Admiral Bars (Watford) Ltd.

There have been no recorded issues with the venue since June 2014 under the current management team.

5.0 **PROMOTION OF LICENSING OBJECTIVES.**

5.1 The application form indicates that the applicant does not feel there is a need to take any additional steps in order to promote the licensing objectives apart from those conditions which are already in force on the licence.

The existing licence and conditions which apply to this premises are attached at appendix 3.

6.0 **RESPONSIBLE AUTHORITIES**

6.1 Police

The Police have submitted representations on the grounds of the prevention of crime and disorder, public safety, and the prevention of public nuisance. These representations are attached at appendix 4.

6.2 Licensing Authority

The licensing authority, in their role as a responsible authority, have submitted representations on the grounds of the prevention of crime and disorder and the prevention of public nuisance. These representations are attached at appendix 5.

6.3 Fire and Rescue Service

No representations

6.4 Environmental Health

No representations

6.5 Planning

No representations

6.6 Trading Standards

No representations

6.7 Child Protection

No representations

7.0 **INTERESTED PARTIES**

7.1 No representations have been received from any interested parties.

8.0 POLICY CONSIDERATIONS

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

- Sections 34 and 35 (Application to vary premises licence):
Section 34 details the process which the applicant must have followed for the application to be considered valid. Section 35 describes the process by which an application for a premises licence is determined, including where relevant representations have been made as in this case.
- 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 Secretary of State's guidance (October 2014) 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.
- Paragraph 9.12:
This paragraph explains how the licensing authority should accept all reasonable and proportionate representations made by the Police unless the authority has evidence that to do so would not promote the licensing objectives. However, it is still the responsibility of the Police to ensure that their representations can withstand scrutiny.
- 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
Under this policy, the premises are best defined as a night-club.
- 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 (as defined in Policy LP3) and as such this policy states that night-clubs (including lap-dancing clubs) 'will generally be allowed licensable activities to 1am only and until 10:30pm on Sunday (other than for special occasions)'

This policy also states that 'where alcohol is sold for consumption on the premises, our policy will be to generally grant an additional 60 minutes between the end of any sales of alcohol and the closing time of the premises (which we refer to as the "terminal hour")'.

- 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 about an application for a pub, night-club or bar (as defined in policy LP1) in this part of the Town Centre, our starting point will be to refuse the application'.

Paragraph 3 of LP3 states that 'where exceptions can be shown and relevant representations have been received, variations to extend alcohol-led premises will not generally be allowed until the premises have been operating for at least 12 months without having an adverse impact on the licensing objectives'.

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 5 of LP3 states that 'where relevant representations have been received and exceptions can be shown for applications for public houses and night-clubs, we will consider whether to require waiter/table service for alcohol sales between 9pm and the final time for the sale of alcohol'.

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.

3. 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 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 LP7 – Public Safety
Under this policy the Sub-Committee will consider any appropriate measures to deal with the issue of public safety 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 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 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 **RELEVANT TRADE OR OTHER GUIDANCE**

9.1 None

10.0 **CONDITIONS**

10.1 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. The most critical part of the operating schedule is the steps taken by the applicant to promote the four licensing objectives. Applicants are always recommended to take careful consideration as to what is entered in this section as whatever is proposed will be translated as conditions on the licence. Applicants should give consideration to the local area and reflect this in their application. They should demonstrate an awareness of the local community, local crime and disorder issues, and environment.

10.2 The applicant has not listed any additional steps in their operating schedule, and instead states that their existing operating schedule and conditions shall remain unchanged. The conditions which currently apply to this premises are contained within the current licence which is attached as appendix 3.

10.3 Conditions proposed by the responsible authorities
No additional conditions have been proposed by the responsible authorities.

10.4 Pool of Model Conditions
The licensing authority also has its own pool of model conditions that may help mitigate the concerns raised in the representations.

10.5 Officers do not feel, however, that there are any appropriate conditions to be taken from the pool of model conditions to address the concerns raised in the representations.

10.6 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.

11.0 OFFICERS' OBSERVATIONS

11.1 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 provision of other licensable activities within a late night venue, identified under our policy as a night-club, and so the Sub-Committee's starting point ought to be to consider refusing the application.

11.2 Policy LP3 also states that where relevant representations have been received, the Sub-Committee may consider granting the application but with limits placed on the hours of operation in line with Policy LP2, unless the applicant can show they should be considered an exception.

11.3 These premises already benefit from permitted hours which are in excess of the hours listed in Policy LP2. These hours pre-date the current licensing policy, as detailed in paragraph 4.3 above.

11.4 To demonstrate whether applicants 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.

11.5 There is little evidence to suggest that this application satisfies these tests. Officers are aware that, in addition to the extended hours on Friday, Saturday and Bank Holiday Mondays, this variation does request a small reduction in hours for the sale of alcohol on Mondays, Tuesdays and Wednesdays. There is also a proposed reduction in hours on Wednesdays for the provision of regulated entertainment and late night refreshment. Members may account for this reduction as satisfying a reduction in the capacity of alcohol sales to qualify as an exception to the policy. Under policy LP3, in any case where the applicant wishes an exception to be considered, the responsibility lies with them to show why it should be considered, and not with the Sub-Committee. Therefore, it is the applicant who must satisfy Members if this reduction in capacity is a "real" reduction, as opposed to an illusory one.

11.6 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.

11.7 The applicant's agent has communicated that the intention of this application is to bring the permitted hours of the Premises Licence more in line with the permitted hours of the Sexual Entertainment Venue licence. Members are

reminded that each application is to be considered on its own individual merits, and the existence of another licence or authorisation does not automatically imply that both authorisations should be granted to the same hours.

- 11.8 Officers arranged a meeting between the representatives of the premises, the Police, and the licensing authority to discuss this application. The licensing authority normally offers this option to parties where representations are received to see if matters can be agreed without the need of a formal hearing. This meeting was held on Friday 16 January. Although there was a discussion around the application, unfortunately nothing was agreed at this meeting and so the representations were not withdrawn.
- 11.9 As detailed in paragraph 11.5, this application does request a slight reduction in hours on certain days. There are no representations to this aspect of the variation, and therefore Members are advised to grant the reduction in hours as requested.
- 11.10 Officers are also aware that the application asks to bring forward the hour when the premises can start providing regulated entertainment on every day. Again, there are no representations to this aspect of the variation, and therefore Members are advised to grant this morning extension as requested.
- 11.11 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.
- 11.12 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 – map of the premises' location

Appendix 2 – plan of the premises

Appendix 3 – existing licence (reference 12/01673/LAPRMV)

Appendix 4 – representations from the Police

Appendix 5 – representations from the licensing authority

Appendix 6 – draft licence (reference 14/01703/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 October 2014)

Licensing Act (Hearings) Regulations 2005

Watford Borough Council Licensing Policy (November 2013)

Watford Borough Council Pool of Model Conditions (March 2013)

File Reference

Diamonds & Strings