

PART A

Report to: Licensing Sub-Committee
Date of meeting: 16 March 2015
Report of: Head of Community and Customer Services
Title: Application for new premises licence:
Seu Café, 26 Vicarage Road, Watford, WD18 0EH
15/00155/LAPRE

1.0 SUMMARY

- 1.1 An application has been received from Mr Lindomar Silva for a new premises licence in respect of Seu Café, 26 Vicarage Road, Watford to allow alcohol sales for consumption on and off the premises between 1000 hours and 2230 hours each day.

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:

For further information on this report please contact: Jeffrey Leib, (Licensing Manager), tel: 01923 278476 email: jeffrey.leib@watford.gov.uk

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
Seu cafe it's a cafe and delicatessen specialized in Portuguese and Brazilian products. We have toilet facilities for our costumers. We also have a few of tables and chairs. We apply for on and off license. Because we would like to add Portuguese and wine, spirits and beer to our Portuguese deli products like Cheese, parma ham, rice, pasta, cereals. On license for our costumer who would like to have a glass of wine or a beer if they wish.

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 immediately nearby. The submitted plan shows a total of four tables with 16 seats.

3.5 The applicant originally sought permission to sell alcohol for consumption off of the premises whilst at an adjoining pavement café (for which a separate licence under the Highways Act 1980 would have been needed). Following discussions with the police the pavement licence part of the application has been withdrawn although the applicant is still seeking permission to sell alcohol for consumption off of the premises.

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

3.7 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		✓
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3.8 Licensable hours

The original application proposed selling alcohol from 1000 hours to 2230 hours each day but has since been amended:

	Proposed hours for alcohol sales	Proposed opening times
Monday	1200 – 2230 hours	0800 – 2300 hours
Tuesday	1200 – 2230 hours	0800 – 2300 hours
Wednesday	1200 – 2230 hours	0800 – 2300 hours
Thursday	1200 – 2230 hours	0800 – 2300 hours
Friday	1200 – 2230 hours	0800 – 2300 hours
Saturday	1200 – 2230 hours	0800 – 2300 hours
Sunday	1200 – 2230 hours	0800 – 2300 hours

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 identify of the proposed designated premises supervisor. If the premises licence is granted no sales of alcohol will be permitted until a suitable DPS has been nominated.

4.3 Current licences held

There are no previous licences associated with the premises. The applicant has previously given temporary event notices for the premises in December 2014 and January 2015.

4.4 Closing date for representations

25 February 2015.

4.5 Public notice published in newspaper

6 February 2015.

4.6 Visits and Enforcement action

(1) The Licensing Enforcement Officer visited with PCSO and police Licensing Officer on 30.01.15 to discuss sale of alcohol to street drinkers. Advice only, no evidence and no further action. Spoke to one of the two owners, not the premises licence applicant.

(2) Visited again on 02.01.15, both owners were present. Allegation of sale of alcohol on 01.02.15. No alcohol on premises, shown fridges and cupboards. Optics on wall in place pending grant of licence. Repeated advice and need for them to remain vigilant.

(3) On 10.02.15 the licensing authority emailed the applicant directly to advise him not to place any furniture on the highway as no licence had been applied for or granted under the Highways Act 1980.

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 The following representations have been received:

Responsible authority	Ground for representation	Appendix No
<i>Police</i>	Crime and disorder	4
<i>Licensing authority</i>	None	-
<i>Environmental Health</i>	None	-
<i>Trading Standards</i>	None	-
<i>Public Health</i>	None	-
<i>Fire & Rescue</i>	None	-
<i>Local Planning Authority</i>	None	-
<i>Chidrens' Safeguarding</i>	None	-

7.0 INTERESTED PARTIES

7.1 Two representations (attached at appendix 5) have been received from interested parties:

Reference letter	Name	Address	Representative Body (Yes/No)	Relevance to which licensing objective
A	Clotilde Lockey and Gary Stocker	73A Vicarage Road	No	Public nuisance and crime and disorder
B	Dominic Blasi	14 – 16 Vicarage Road	No	Public nuisance and crime and disorder

7.2 Representation A is from two residents who live opposite the premises and who mention there have already been problems associated with the premises. Although unsubstantiated they do lead credence to the fact that the police and the licensing authority's enforcement officer have verbally warned the applicant in relation to the supply and display of unauthorised alcohol on the premises. 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 Representation B cites concerns about match-day alcohol sales and also street drinkers.

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.
- 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 October 2014 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.
- 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 – 9.39:
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 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 **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. The Sub-Committee may consider that this application had not sufficiently considered the potential implications of street drinkers and of Vicarage Road match-days until after the application had been lodged and those issues discussed with the police.
- 9.4 The concerns in representation B were shared by the police and led to the applicant amending the original starting time for alcohol sales and withdrawing the possibility of a pavement licence application.
- 9.5 The Sub-Committee may be aware that The Hornets and Vicarage Road are subject to a designated public places order under the Criminal Justice and Police Act 2001. Whilst it is legal to consume alcohol in those roads, it is an offence to continue to do so when requested to stop by a police officer, police community support officer or accredited person. This was introduced in 2002 to tackle the anti-social behaviour posed then by street drinkers which according to the police have not abated partly due to the presence of a nearby hostel.
- 9.6 Conditions consistent with the operating schedule
Some of the police's concerns are to do with the business operating on match-days. The Sub-Committee may therefore consider it appropriate to promote the crime prevention objective by imposing a condition similar to one imposed on another off-licence in Vicarage Road as follows:
- When football matches are played at Vicarage Road Stadium and police are present, no alcohol sales shall be made during the periods:
 - (a) 30 minutes before the start of the match
 - (b) 30 minutes after the start of the match
 - (c) 30 minutes after the end of the match
- 9.7 The Sub-Committee may also consider the following conditions may be appropriate for preventing crime and disorder associated with the risk from street drinkers committing anti-social activity referred to in the police and interested parties' representations:
- no single cans or bottles of beer, lager or cider shall be sold for consumption away from the premises.
 - no sales of miniature or quarter bottles of spirits of any kind shall be permitted.
 - no sales of beer, cider or lager of above 6%ABV shall be permitted for consumption away from the premises.

- 9.8 Conditions proposed by Interested Parties
Representation B contains a suggestion that if the licence is granted the proposed alcohol times for sale should be reduced and only on-sales allowed.
- 9.9 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. A draft licence is set out at appendix 6 should the Sub-committee be minded to grant the application.
- 10.0 **OFFICERS' OBSERVATIONS**
- 10.1 In the absence of any representations this application would be entitled to the full hours that were sought in pursuit of the licensing authority's policy. However, this view is tempered by the representations that cite risks to crime, disorder and public nuisance due to the proximity of the premises to known haunts for street drinkers in the Vicarage Road precinct and nearby graveyard, as well as from football fans during match days. Whilst the applicant's operating schedule addresses what called be termed "normal" risks associated with selling alcohol it has not taken into account the statutory guidance to assess what may be termed "additional" risks in the locality. Accordingly the sub-committee may think it appropriate to impose those additional conditions referred to in paragraph 9.4 and 9.5 above should they consider granting the licence.
- 10.2 These conditions would meet the proposals put forward in representation B. Members may wish to take account that the writer of representation B owns a nearby café at 14 Vicarage Road, although it does not have any relevant licences.
- 10.3 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.
- 10.4 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 – operating schedule

Appendix 4 - representations from the Police
Appendix 5 – representations from interested parties
Appendix 6 - 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

Amended guidance issued under section 182 of the Licensing Act 2003
(October 2014)

Licensing Act (Hearings) Regulations 2005

Watford Borough Council Licensing Policy (January 2013-18)

Watford Borough Council Pool of Model Conditions (March 2013)

File Reference

Seu Café