

PART A

Report to: Licensing Sub-Committee
Date of meeting: 24 August 2015
Report of: Head of Community and Customer Services
Title: Variation of Premises Licence Application:
Circus, Basement, Gade House, 46 The Parade, Watford
15/01045/LAPRE

1.0 **SUMMARY**

1.1 An application for a variation has been received from REL Watford Limited to vary the existing premises in respect of Circus (formerly Cameo), basement floor, Gade House, 46 The Parade, Watford to increase the opening hours, alcohol sales and licensable activities and also to make amendments to the existing licence conditions.

Representations have been received from two Responsible Authorities.

2.0 **RECOMMENDATIONS**

2.1 That the Licensing Sub-Committee determines whether to grant the application (amended where necessary 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 premises licence.

3.2 Description of premises from the application form
Circus is a basement floor nightclub located in the Town Centre on The Parade. It is linked internally to a ground floor bar premises which it is important to note that although under the same ownership and management is subject to a separate premises licence. Circus offers a themed and higher level of entertainment as well as provision of late night refreshment.

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

3.4 Licensable activities
No additional licensable activities have been requested.

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

The details of the application to vary the premises are as follows:

	Proposed opening hours	Proposed alcohol sales hours	Proposed hours other licensable activities	Proposed late night refreshment hours
Mon - Sat	1200 – 0330	1200 – 0230	1200 – 0300	1200 - 0300

4.0 **BACKGROUND INFORMATION**

4.1 The following background information is known about these premises:

(1) The premises were originally Cameo, a nightclub converted from the 1964 licensing regime into the current Licensing Act 2005 regime.

(2) The premises falls under the category of 'nightclub'. The premises already benefits from hours which are in excess of the recommended terminal hour of 1am of nightclubs (22:30 hours on Sundays) under the current policy as the hours were granted before the current policy came into force.

(3) These premises are within the area known as Cumulative Impact Area defined in the special policy within the Council's own Statement of Licensing Policy.

(4) An application for Transfer of Premises licence into the name of REL Limited was granted in April 2015 (Licence No 15/00529/LAPRE)

4.2 Designated premises supervisor

To be nominated

4.3 Current licences held

The current licence held by REL Ltd since April 2015

4.4 Closing date for representations

4 July 2015

4.5 Public notice published in newspaper

10 July 2015

4.6 Visits and Enforcement action

None.

5.0 **PROMOTION OF LICENSING OBJECTIVES**

General

The application indicates the steps taken to promote the licensing objectives will be as per the existing licence with the exceptions of those conditions

which are requested to be added and removed through this application.

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 has been reproduced at appendix 3.

5.2 The existing licence and conditions which apply to this premises are attached at appendix 7.

6.0 RESPONSIBLE AUTHORITIES

Representations have been received from two responsible authorities and are attached at appendices 4 and 5:

	Prevention of crime and disorder	Prevention of nuisance	Public safety	Protection of children from harm
Licensing authority	✓	✓	✓	
Police	✓	✓	✓	
Fire Service				
Planning authority				
Trading standards				
Environmental Health				
Child Protection				
Public Health	✓		✓	

6.1 During informal meetings with the applicant's agents Police have raised concerns of crime and disorder and are of the opinion that this application if granted has the potential to give rise to a negative cumulative impact on one or more of the licensing objectives. At the time of writing this report negotiation meetings have been ongoing between Public Health, Police and the applicant's agents to address the crime and disorder and public health concerns.

7.0 INTERESTED PARTIES

7.1 None

8.0 POLICY CONSIDERATIONS

8.1 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,

8.2 Statutory guidance

The following provisions of the March 2015 Secretary of State's guidance 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 adequate and likely to promote the licensing objectives. It is equally important to use the same measure when looking at any steps requested by a party making representation against an application.
- 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 explains 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 by the Sub-Committee, should they believe that these are necessary to promote the licensing objectives. Any additional conditions requested by the responsible authorities should be considered with reference to this chapter.
- Paragraph 8.35
Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy) applicants are also expected to demonstrate an understanding of how they policy impacts on their application, any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.

Policy

Policy LP1 would define these premises as a 'nightclub' and accordingly would only be entitled under Policy LP2 to operate until 1am (other than for special occasions) and until 22:30 hours on Sundays unless an exception can be shown.

Even without the variation, the premises licence exceeds the hours set out in the policy. This is because the original licence, granted in 2005 predated the current policy.

Policy Exceptions

Nevertheless, the applicant still has to demonstrate that they are an exception to policy LP3 in order to benefit from the additional hours that they are seeking. The policy seeks to encourage food and entertainment led premises at the expense of alcohol-led premises. It is intended to be strictly applied and states that the starting point for applications where relevant representations have been granted is to refuse applications for alcohol-led premises unless:

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

The requested hours of operation do not suggest that the premises will contribute as a family friendly business but the Sub-Committee will note that the exceptions are alternatives not mandatory requirements to be met.

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 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 'will generally be allowed licensable activities to 1am 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'.

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.

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 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.

9.3 Applicant should give consideration to the local area and reflect this in their application (refer to Statutory Guidance at paragraphs 8.33 – 8.36). They demonstrate an awareness of the local community, local crime and disorder issues, and the local environment

9.4 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 are 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. It includes a number of additional and amended conditions, as indicated on the draft.

9.5 Consistent with the Operating Schedule

The applicant has provided a detailed operating schedule (appendix 3) which, if the application is granted, would be translated into licence conditions. In this application, the applicant seeks to remove the following conditions which have been subject to pre-application discussions with the licensing authority and the police:

1. At all 'significant events the premises must employ the Scannet electronic identification system (or an alternative electronic identification system if agreed in writing with the police licensing officer in advance). All customers must be subjected to the system before entry.
- 2 All faults/defects in the CCTV system must be reported to Hertfordshire Constabulary immediately the fault is discovered. The notification must be made to the Herts Police non-emergency number and a log number obtained from the Police and recorded in the incident book. The

Community Safety Unit at Watford Police Station must also be notified as soon as reasonably practicable.

- 3 The DPS (or nominated deputy as defined above) is to be responsible for the bookings of all significant events at the premises (as defined above).
 - 4 No glass drinking vessels or containers (including bottles) of any sort may be provided to, or used by, customers on the premises (save as provided for below in regard to the VIP area).
 5. In the VIP area of the premises (an area to be agreed with the police licensing officer in writing and marked on a plan) glass champagne bottles may be used providing the bottles are brought to, and collected from, the VIP area by a waiter or waitress employed at the premises. When glass champagne bottles are present in the VIP area at least one door supervisor must be present in the VIP area specifically tasked with monitoring the VIP area.
 - 6 At least 4 door supervisors must monitor the smoking area in person when the premises is open for licensable activities (unless a different number or ratio of door supervisors to customers is agreed in writing in advance with the police licensing officer responsible for the Watford area).
 - 7 The premises licence holder shall ensure that at all “significant events” at least 4 door supervisors are tasked with specific responsibility for marshalling the public areas of the premises to detect and deter the use of illegal drugs. The names and SIA registration number of these members of staff must be recorded in a log kept at the premises. The log must be made available immediately to police and local authority officers at the premises upon request.
 - 8 All assaults resulting in physical injury to a customer or member of staff must be reported immediately to the police contact centre (999 or 101 telephone numbers).
 - 9 All customers, promoters, performers, artists and DJ’s must be searched prior to entry. The search must include (but is not limited to) the use of a metal search arch or use of a metal detecting wand, the searching of bags, and a full pat down search of each person with removal of jackets or coats.
- 9.6 The applicant also seeks to add the following conditions which predominately arose from pre-application discussions with the licensing authority, Environmental Health and the police:
- 1 All significant fault/defects resulting in a CCTV camera being unable to record in any public or communal area, entrance or exit will be logged on site and reported to Hertfordshire Constabulary as soon as

reasonably practicable, once the fault is discovered, via email.

- 2 After 9pm no glass drink vessels or containers may be provided to, or used by, customers on the premises, save as to cocktails, wine, champagne, or any bottles of 75cl or above.
- 3 Where any incident involving any injury to any person occurs as a result of glass then the licensing authority may direct in writing, in the advice of the police, that polycarbonate receptacles be used throughout the premises.
- 4 At anytime the door staff are employed, the smoking area is to be monitored by SIA registered supervisor during the time that the premises are open for licensable activities.
- 5 Any serious assaults resulting in physical injury to a customer or member of staff must be reported immediately to the police contact centre (999 or 101 telephone numbers).
- 6 The premises holder shall implement a scheme of random searches of customers, promoters, performers, artists, and DJ's prior to entry of the premises. The random search must include (but is not limited to) the use of a metal search arch or use of a metal detecting wand, the searching of bags, and a full pat down search of each person with removal of jackets or coats.
- 7 A sound limiting device located in a separate and remote lockable cabinet from the volume control shall be fitted to any musical amplification system and set at a level determined by and to the satisfaction of an Environmental Health Officer to ensure that no noise nuisance is caused to local residents. The operational panel of the noise limiter shall then be secured to the satisfaction of an Environmental Health Officer or Licensing Authority authorised officer. The keys securing the noise limiter cabinet shall be held by the licence holder or authorised manager only, and shall not be accessed by any other person. The limiter shall not be altered without prior agreement of the Environmental Health Officer.
- 8 All windows and external doors shall be kept closed between 11pm and 8am, or at anytime when regulated entertainment takes place, except for the immediate access and egress of persons.
- 9 The Premises Licence Holder and /or Designated Premises Supervisor shall co-operate with reasonable requests made by authorised officers of responsible authorities under the Licensing Act 2003 to ensure the licensing objectives are not undermined, providing such requests do not involve additional expenditure.
- 10 Food must be available for customers until at least one hour before the end of any period for the sale of alcohol.

11 Any furniture placed in the external highway area will be brought inside after 11pm everyday.

9.7 Conditions proposed by Responsible Authorities

For the premises to be more entertainment-led and to encourage a diverse range of entertainment rather than solely DJs the Licensing Authority in their role as Responsible Authority have proposed the following condition:

“The Premises may only be opened after 0200 on any day (except Sunday) when live entertainment has been provided (and capable of being viewed by a majority of the customers present) at the premises for at least 25% of the time after 2200 hours on the previous day”

9.8 As this condition was accepted by the applicant, the licensing authority withdrew their representations and this condition will now form part of the premises licence.

9.9 As part of their representations, the police have proposed a number of conditions, to alleviate crime and disorder. These conditions are detailed in their representations (attached at appendix 4).

9.10 Police have proposed some conditions that could be added to the premises licence. Officers have made some observations which are as follows:

Scannet – The installation of an electronic identification system could be made into a workable condition if Members considered it appropriate for the promotion of licensing objectives.

Scanned Data – a practical and enforceable condition.

Form of ID - now covered under Mandatory conditions. According to the Guidance conditions should not duplicate other statutory requirements.

Rectification of CCTV and audit trail – this condition appears to be to the satisfaction of the police and seems to be practical, realistic and enforceable. This request could be dealt with by way of a condition if Members consider it appropriate and proportionate.

Smoking Area - Police have proposed one licensed door supervisor per 25 patrons in the smoking area. However the applicant expressed his view on having one door supervisor per 50 patrons as smoking area could be viewed by the door supervisors whilst they are at premises entry door. If there is any disorder in the smoking area additional door supervisor would be available for monitoring.

Pubwatch - the requirement to join and attend Pubwatch is practicable and enforceable and could be added as a condition. Members to decide the proportionality of this condition.

In addition to the above Police have also given some consideration on policies and would like the premises management and staff to engage and work in cooperation with the Police to address Night Time Economy and wider community (refer to appendix 4).

10.0 OFFICERS' OBSERVATIONS

- 10.1 The Sub Committee should note that these premises and the adjoining ground floor premises have been vacant for some time since the liquidation of the previous occupier. The applicant, REL Limited, has transferred both premises licenses and has refurbished them.
- 10.2 The applicant has provided a number of steps that they intend to take to promote the four licensing objectives and Police have made amendments to their proposed conditions. Refer to appendix 4.
- 10.3 Police have raised concerns that resources and funding are required to police these areas every weekend and during key night time economy events. The proposed extended opening hours of Circus would undoubtedly increase the number of people who either enter the area or remain in the area thus increasing the likelihood of further violent occurrences.
- 10.4 At the time of writing this report the applicant has had meetings and detailed negotiations with the police and licensing authority officers and the police await a written response from the applicant. The applicant's agent have verbally agreed to the police's proposals. During those meetings the applicant has carefully reviewed the proposed conditions to address the concerns of the responsible authorities to promote the statutory objectives with balancing their need to run a profitable business.
- 10.5 Whether the applicants are able to run a profitable business, and whether there is a demand for alcohol-licensed premises, are not matters for the sub-committee to take into account. However, it can be argued that objectives within the licensing authority's policy to promote a safe and vibrant night-time economy would be relevant matters.
- 10.6 Public Health representations highlight the data from Watford Hospital Emergency Department which shows that in 2014 the peak time for alcohol related assault was between 2-3am. In addition to this 53% of the assault cases were from Watford High Street area. They would like all injuries to be reported immediately to the police contact centre as all assaults resulting in physical injury is a crime. In their opinion assaults and injuries are caused by glass containers and the applicant's proposal to remove this condition would not alleviate their concerns. They are of the opinion that any number of conditions proposed by the applicant would not be sufficient to prevent crime and injury to the patrons and community as the potential is there to give rise to assaults.
- 10.7 The impact on community and patrons is of course a relevant consideration for the sub-committee to take into account. Officers would point out that

whilst the sub-committee is entitled to be forward-looking and can take into account hearsay evidence about concerns, there is little evidence that granting the application to these particular applicants over and above what is currently in place would undermine the crime and disorder and public nuisance raised in the representation.

- 10.8 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.
- 10.9 The Sub-Committee will be aware that even if this application is rejected in total the applicants will still be able to operate the premises under their existing licence.
- 10.10 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.
- 10.11 The Sub-Committee will be aware that either the applicant or the interested party has the right to appeal within 21 days to the magistrates' court against its decision.

Appendices

- Appendix 1 - Map of the premises' location
- Appendix 2 - Plan of the premises
- Appendix 3 - Operating schedule
- Appendix 4 – Police Representations
- Appendix 5 – Public Health Representations
- Appendix 6 – Draft premises licence
- Appendix 7 – Current 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)
(March 2015)

Licensing Act (Hearings) Regulations 2005

Watford Borough Council Licensing Policy (January 2013-18)

Watford Borough Council Pool of Model Conditions (July 2010)

File Reference
Circus