



LICENSING SUB COMMITTEE

D&S Food and Wine
2 Market Street

Tuesday, 25th March, 2014

10.30 am

Town Hall, Watford

Publication date: 17 March 2014

CONTACT

If you require further information or you would like a copy of this agenda in another format, e.g. large print, please contact Jodie Kloss in Democracy and Governance on 01923 278376 or by email to legalanddemocratic@watford.gov.uk.

Welcome to this meeting. We hope you find these notes useful.

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COMMITTEE MEMBERSHIP

Councillors I Brown, J Brown, J Connal, K Crout, G Derbyshire, J Dhindsa, K Hastrick, P Jeffree, H Lynch, M Meerabux, M Mills, G Saffery, D Scudder, L Scudder and M Turmaine

The Sub-Committee to comprise three councillors from those listed above.

AGENDA

PART A - OPEN TO THE PUBLIC

1. COMMITTEE MEMBERSHIP/ ELECTION OF A CHAIR
2. DISCLOSURE OF INTERESTS (IF ANY)
3. APPLICATION FOR VARIATION TO A PREMISES LICENCE: D & S FOOD AND WINE, 2 MARKET STREET, WATFORD WD18 0PD (14/00178/LAPRE) (Pages 1 - 28)

Report of the Head of Community and Customer Services

This report asks the Sub-Committee to consider an application to vary the licence at the above premises following the receipt of representations.

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PART A

Report to: Licensing Sub-Committee
Date of meeting: 25 March 2014
Report of: Head of Community and Customer Services
Title: Application for Variation of Premises Licence:
D & S Food and Wine, 2 Market Street, Watford WD18 0PD
14/00178/LAPRE

1.0 SUMMARY

- 1.1 An application for the variation of an existing Premises Licence has been received in respect of D & S Food and Wine, 2 Market Street, Watford. Representations about part of the application have been received from a councillor, the police and the licensing authority.

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:

For further information on this report please contact:

Jeffrey Leib, Licensing Manager

Telephone 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
Variation to Premises Licence by Augustin Arul.

3.2 Description of premises (from the application form)
The premises are a small convenience store on the edge of town on Market Street.

3.3 A location plan of the premises is attached as appendix 1.

A layout plan of the premises is attached as appendix 2.

3.4 Licensable activities

Licensable activity	Permitted now	Subject to variation
Plays		
Films		
Indoor sporting 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	✓	✓

3.5 Hours

The proposed hours for licensable activities and opening are detailed in the following tables:

	Existing opening hours	Existing hours for alcohol sales	Proposed opening hours	Proposed hours for alcohol sales
Monday to Sunday	07:00 to 23:00	10:00 to 20:00	07:00 to 23:00	10:00 to 22:00

4.0 **BACKGROUND INFORMATION**

4.1 The following background information is known about these premises:

4.2 Designated premises supervisor

The designated premises supervisor is Augustin Arul, who has also been the premises licence holder since it was granted.

4.3 Current licences held

Premises licence 13/00414/LAPRE granted on 14 May 2013.

The current licence is attached as appendix 3.

4.4 Closing date for representations

6 March 2014

4.5 Public notice published in newspaper

As required under the Licensing Act 2003, this application has been advertised in the local newspaper and also outside the premises.

4.6 Visits and Enforcement action

No enforcement action has been taken in relation to the premises.

5.0 **PROMOTION OF LICENSING OBJECTIVES**

5.1 The application indicates that the applicant does not feel there is a need to take any additional steps in order to promote the licensing objectives (refer to appendix 3 for existing conditions).

5.2 In addition to extending the alcohol sale hours, the applicant is applying to remove the conditions prohibiting the sale of:

- (1) single cans or bottles of beer, lagers or cider (annex 2, condition 1)
- (2) quarter bottles and miniature bottles of spirits (annex 2, condition 2).

6.0 **RESPONSIBLE AUTHORITIES**

6.1 Police

The police have made representations about the removal of the two conditions due to the relationship of the location of the premises to the town centre; the likelihood of street drinkers obtaining small bottles of alcohol; and intelligence-based concerns about the prevention of sales to children (see appendix 4).

6.2 Licensing Authority

The licensing authority has made representations concerning the level of alcohol-related anti-social behaviour in and around this part of the town centre prior to controls limiting the type of alcohol that could be sold were introduced (see appendix 4).

6.3 Environmental Health
No representations submitted.

6.4 Trading Standards
No representations submitted.

6.5 Local Planning Authority
No representations submitted.

6.6 Fire and Rescue Service
No representations submitted.

6.7 Child protection
No representations submitted.

7.0 INTERESTED PARTIES

7.1 The single representation is attached at appendix 4 and has been made available to the applicant.

7.2

Reference letter	Name	Address	Representative Body (Yes/No)	Relevance to which licensing objective
A	Councillor Helen Lynch	c/o Town Hall, Watford	No	Crime and disorder

7.3 None of the representations object to the hours for the sale of alcohol being increased. All of the representations object to removal of the conditions proposed by the applicant. Removing those conditions will make the premises more attractive to street drinkers in a street that has historically suffered from alcohol-related anti-social behaviour and vandalism.

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.

8.2 The following provisions of the 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.

- Paragraph 10.12:
This paragraph refers to there being no general presumption in favour of lengthening licensing hours and how a committee may act when they receive objections to an application.
- 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.

8.3 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 an "off-licence".
- 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.

Under this policy the premises are defined as being in the town centre.
- Policy LP6 (Prevention of Public Nuisance):
Under this policy the committee will particularly consider the likelihood of any anti-social behaviour, violence, public order or policing problem if the licence is granted.
- 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 RELEVANT TRADE OR OTHER GUIDANCE

9.1 None

10.0 CONDITIONS

10.1 The premises licence already contains a large number of conditions drawn from the applicant's initial operating schedule. There are no further conditions that would alleviate the concerns raised in the representations, as those are concerned about the removal of two licence conditions.

11.0 OFFICERS' OBSERVATIONS

11.1 The premises are located within the town centre policy area. Market Street has historically had a high level of alcohol-related anti-social behaviour, largely predicated around on-street drinkers but also under-age sales. Officers have previously worked with off-licences in the street on a formal and informal basis (including a review) to change licence conditions and management practices to reduce such incidences to nearly zero.

11.2 There is concern by the police, licensing authority and a ward councillor that relaxing the conditions in question could encourage a return to alcohol-linked anti-social behaviour. This is supported by effectively an untested third-hand police intelligence report of cigarettes (which are an age-restricted product the same as alcohol) being sold to children outside of the shop.

11.3 Whilst there is no objection to the premises extending the time for alcohol sales, its proximity to the night-time economy could lead to more people attempting to "smuggle" in small bottles of alcohol purchased elsewhere into town centre pubs and clubs. This makes it difficult for them and their door supervisors to prevent drunkenness in and around their own premises if customers bring in their own alcohol.

11.4 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.

Appendices

Appendix 1 – map of the premises' location

Appendix 2 – plan of the premises

Appendix 3 – copy of current Premises Licence

Appendix 4 – representations from interested parties

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 (June 2013)

Licensing Act (Hearings) Regulations 2005

Watford Borough Council Licensing Policy (November 2013)

Watford Borough Council Pool of Model Conditions (March 2013)

File Reference

D & S Wines

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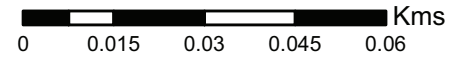


2 Market Street



Appendix 2

Date: 17/03/2014

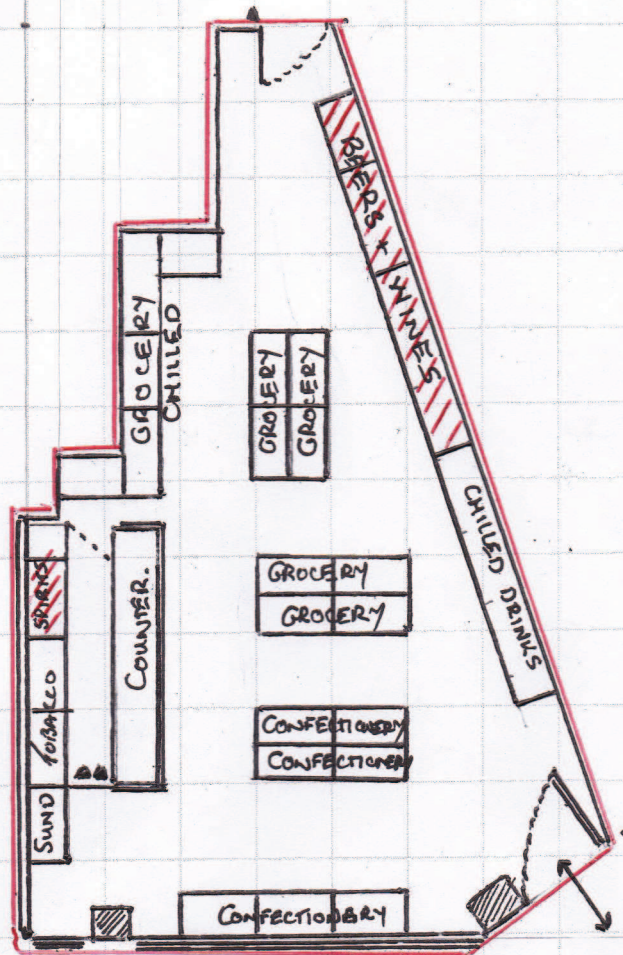


Scale 1:1,250



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for your premises.



A FIRE EXTINGUISHERS

gnage, blankets, sprinklers and alarms showing enclosed key
pen to the public
is one on the premises

Name: D+S FOOD + WINE.
Plan No: 2 MARKET STREET WATFORD.
Date: SCALE 1:100
SG/GPR/001.

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**Licensing Act 2003
Schedule 12
Part A**

Regulation 33,34

Premises Licence

Premises Licence Number

13/00414/LAPRE

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

D & S Food And Wine
2 Market Street
Watford
WD18 0PD

Telephone number

Where the licence is time limited the dates

From 14 May 2013

Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities

Sale of alcohol	Monday to Sunday	10:00 – 20:00
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The opening hours of the premises

Monday to Sunday	07:00 – 23:00
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Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption off the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Mr Augustin Arul
19 Poynters Road
Dunstable
LU5 4SG

Registered number of holder, for example company number, charity number (where applicable)

Not applicable

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mr Augustin Arul
19 Poynters Road
Dunstable
LU5 4SG

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Personal Licence Number: 1001222
Licensing Authority: Central Bedfordshire Council

Annex 1 – Mandatory conditions

- 1 No supply of alcohol may be made under the premises licence
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a premises licence or his personal licence is suspended.
- 2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- 3 (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

Annex 2 – Conditions consistent with the Operating Schedule

General

1. No single cans or bottles of beer or cider shall be sold at the premises.
2. No sales of miniature or quarter bottles of spirits of any kind.
3. The premises will not stock any beers or ciders over an ABV of 6%.
4. All staff will be fully trained in their responsibilities with regard to the sale of alcohol, with refresher training every 6 months.
5. Training records will be retained a produced on request to an authorized officer.
6. The DPS will keep an up to date DPS Authorisation sheet which will show the list of staff members who have been given the authority to sell alcohol on the premises.

Prevention of Crime and disorder

7. CCTV shall be in use at the premises, it shall be to an appropriate standard as agreed with the Licensing Authority in consultation with the Police.
8. The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards.
9. The premises licence holder shall ensure images from the CCTV are retained for a period of 31 days. This image retention period may be reviewed as appropriate by the Licensing Authority.
10. The correct time and date will be generated onto both the recording and the real time image screen.
11. If the CCTV equipment (Including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the designated premises supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police as soon as is reasonably practicable. This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified.
12. The premises Licence holder shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of an authorised officer of the Licensing Authority or a constable.
13. There shall be clear signage indicating that CCTV equipment is in use and recording at the premises during all trading hours.
14. There will be two cameras located outside the premises, one covering the front of the store and one covering the side of the premises, all recording as stated above.

Public safety

15. An instore accident book will be in operation to record any accident/ injury incurred on the premises. This document will be retained for inspection by the store for a period of three years.

Prevention of public nuisance

16. Customers will be reminded by way of a notice at the entrance/ exit door to please leave the premises quietly and have consideration for any neighbouring residential properties.

Protection of children from harm

17. Only photographic ID is accepted (passport, driving licence, proof of age card with PASS hologram).
18. Anyone who appears to be under the age of 25 is challenged to provide ID. If the customer is unable to provide identification then no sale is made. No ID no sale. Challenge 25 POS will be on display in the store. Any staff member who may be under the age of 18 must call a senior staff member to take over the sale and complete the transaction.
19. All refused sales will be recorded in a refusals book, which will be made available for inspection by Police or Licensing Officers of the council on request.

Annex 3 – Conditions attached after a hearing by the licensing authority

No hearing was held in relation to this application.

Annex 4 – Plans

Name: D+S FOOD+WINE
Plan No: 2 Market Street Watford
Date: SG/GPR/001

Austen Young

From: Liam Fitzgerald

Sent: 24 February 2014 15:36

To: Austen Young

Subject: Variation application by D&S Food and Wine 2 Market street

Austen, on reviewing the application for a variation to the current off license operated under by D& S Food and Wine , I have grave concerns as to the lifting of the prohibition preventing single sales of, beer ,larger, cider, by single cans or bottles and the requested variation by the D &S Food and Wine to sell quarter bottles and 'miniatures' containing intoxicating spirits.

My concerns are based on the evidence gathered from the historical interventions needed to be undertaken by the local authority and police in this location ('market street' Watford) to tackle the previous upsurge of high visibility street drinking and associated intoxicated ABS, fuelled by the ability of street drinkers access to single unit and quarter bottles, of alcohol, their preferred method of consumption.

To go against this effective preventative measure (of no single sales and no quarter miniature sprits) would be to my mind mind to go against the licensing objectives, as it would almost immediately lead to street drinkers becoming aware of the outlets unusual business practice and would, in my experience of dealing with such issues, be the cartelist for an upturn in ASB and alcohol related crime and disorder.

In relation to the additional request for the business to attain extend hours , I have no objection.

Liam Fitzgerald
Anti Social Behaviour Co-ordinator
Community Safety Team
Community and Customer Services
Watford Borough Council
01923 278503

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Austen Young

From: Councillor Helen Lynch External
Sent: 08 February 2014 22:17
To: Austen Young; Councillor Lizz Ayre; Councillor Helen Lynch; Councillor Rabi Martins; sgm@cix.co.uk; Councillor Jan Brown
Cc: Jodie Kloss
Subject: RE: Licence Variation Application - D&S Food & Wine, 2 Market Street

Hi Austen

I am opposed to this application because I do not approve of the original licensing conditions being relaxed ie the sale of single cans and miniatures, as by doing so it will make the outlet more attractive to street drinkers and therefore increase the risk of alcohol related ASB in the area. As this area is susceptible to this type of public nuisance it could be detrimental to the quality of life of the local community.

Kind regards

Helen

Councillor Helen Lynch

Central Ward.

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Austen Young

From: Jamie Mackenzie
Sent: 04 March 2014 11:59
To: Austen Young
Subject: Rep against D and S, Market Street

On behalf of Watford Borough Council Licensing Department, as Licensing Enforcement Officer, I would like to make representations against the application by D and S Food and Wine, Market Street for change of licensing conditions.

There is no objection to the proposed change of hours.

Between 2009 and 2013 officers from the licensing department, local police and anti-social behaviour units were engaged in a series of long operations and observations in the Market Street area as a result of serious escalation in street drinking activities.

I personally witnessed drinkers congregating and causing anti-social behaviour, purchasing alcohol when intoxicated in contravention of the law and intimidating residents of nearby streets due to rowdy and drunken behaviour. On one particularly upsetting occasion it was required of me to escort a young child, around 8 to 9 years of age back to his home on St Mary's Road simply because he did not want to walk past two loud drunken street drinkers who were effectively blockading the pavement near to his house.

Through a combination of evidence gathering, formal interviews, review proceedings and voluntary agreement, we established a set of conditions applied to premises along Market Street to restrict the sale of strong lager and cider (that above 5.5% ABV) and the sale of individual cans of the same. Sales of quarter bottles of spirits and miniatures were also restricted.

The results were emphatic. We have seen a sharp decline in incidents to zero within the past 12 months. Whilst it cannot be said that any one retailer was wholly responsible for causing these issues, it was clear that the general availability of strong lager and cider, quarter bottles and miniatures in this area acted as a draw to the unfortunate street drinkers. Retailers were not in a position to rebuff these drinkers without formal conditions being applied to the licenses. The application of these conditions removed the temptation for the street drinkers. Denying them access to the cheaper stronger alcohol led to an almost total dispersal of the issues that Market Street had faced.

Pre-emptive action to impose the same conditions on any new premises opening in the area has had the effect of continuing this dramatic improvement, and is justified, not only in reducing the impact to local residents and users of the street, but in also reducing the significant burden placed on the enforcing authorities when they are called upon to continuously visit this one street among all in the Borough.

To go against this effective preventative measure (of no single sales and no quarter or miniature spirits) would be to go against the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. It would almost immediately lead to street drinkers becoming aware of the outlets unusual business practice and would likely be the catalyst for an upturn in anti-social behaviour in this area.

Jamie Mackenzie

Licensing Enforcement Officer

Community and Customer Services

Watford Borough Council

Town Hall, Watford, Hertfordshire WD17 3EX

Phone:(01923)278476 Fax:(01923) 230765

Email:jamie.mackenzie@watford.gov.uk or licensing@watford.gov.uk

Visit the Watford Borough Council website on www.watford.gov.uk

You can now apply from our website for most licences online (apart from hackney carriage/private hire, gambling and personal alcohol licences).

Austen Young

From: Mark.Bilsdon@herts.pnn.police.uk
Sent: 24 February 2014 11:33
To: Austen Young
Cc: Councillor Jan Brown; Councillor Helen Lynch
Subject: FW: Premises Licence Variation - D & S Food & Wine, 2 Market Street
Attachments: 85295 - Application to vary 7.2.14.pdf
 Austen

On behalf of Hertfordshire constabulary I would like to object to the Premises licence variation – D&S Food and Wine.

The reason for our objection is the based on the request to remove the following conditions:-

- *Condition prohibiting the sale of single cans/ bottles of beers/lagers/or ciders*
- *Condition prohibiting the sale of quarter bottles and miniature bottles of spirits*

I do not have an objection to the change of hours requested.

The prevention of public nuisance

Market street Watford has had a historical problem with street drinkers resulting in complaints from residents of Anti-Social Behaviour. Premises in Market Street have been taken to review in 2012 for selling to street drinkers and the resultant conditions on new premises restricting the sale of single cans, bottles, miniatures and quarter bottles of spirits were introduced to prevent this problem returning. At present this policy appears to be working and I do not wish to relax our stance that could result in the return of this ASB.

The prevention of crime and disorder

The premises is very close to the town centre and with the extended hours could increase the volume in customers seeking to pre-load with alcohol before going on to on-licenced premises. These customers would require small and convenient sized bottles that could then be taken in to other premises. There is a risk of an increase in crime and disorder when there is an opportunity for members of the public to pre-load.

The protection of children from harm

The police have received unsubstantiated reports that D&S have sold alcohol to children under the age of 18. It is my concern that the controls in place are not as tight as may be hoped and once this application process is complete I will look to work with the premises to address this issue. If the there is a relaxation in the conditions this will make the premises more attractive to younger customers with lower disposable income.

Regards

Mark 'Bob' Bilsdon | Sergeant 1898
Community Safety Unit | Watford and Three Rivers CSP's
01923 472040 |
e: mark.bilsdon@herts.pnn.police.uk

From: Austen Young [mailto:Austen.Young@watford.gov.uk]
Sent: 07 February 2014 14:10
To: Env Health; BILSDON, Mark 1898; 'admin.lscb@hertfordshire.gov.uk';
'administration.cfs@hertfordshire.gov.uk'; 'tradingstandards@hertfordshire.gov.uk'; Development Control;
'publichealth@hertfordshire.gov.uk'
Cc: FRANKLIN, Susan 8470; Liam Fitzgerald
Subject: Premises Licence Variation - D & S Food & Wine, 2 Market Street

Dear all

Please note that the licensing team at Watford Borough Council have received an application to vary a Premises Licence issued under the Licensing Act 2003 for the premises known as D & S Food & Wine, 2 Market Street, Watford WD18 0PD.

As this application was submitted to the licensing authority online, please find attached your copy of the application.

The application is now deemed to have been served on you as responsible authorities.

The consultation period for this application closes on **6 March 2014**. Any comments on this application must be submitted to the licensing authority by this date. Comments received after this date can not be accepted.

Please do not hesitate to contact me should you have any queries regarding this application.

Regards

Austen

Austen Young
Licensing Officer
Licensing Team
Community and Customer Services
Watford Borough Council
Town Hall, Watford, Hertfordshire WD17 3EX
Phone: (01923) 278476 Fax: (01923) 278627
Email: austen.young@watford.gov.uk or licensing@watford.gov.uk
Visit the Watford Borough Council website at www.watford.gov.uk

You can now apply for most licences online via our website (apart from hackney carriage/private hire, gambling and personal alcohol licences)

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It's your vote, don't lose it

If you're not registered, you can't vote

The annual canvass to update the voters register for 2014 is almost complete within Watford Borough. If you / your household have not responded please do so without further delay.

Please note that you are not automatically entitled to vote because you pay council tax or have voted before.

Make sure you are registered; otherwise you may lose your right to vote.

NOTE If you have moved home since the last time you voted please check with the Council that you are now registered correctly at your new address.

If you have moved it is your responsibility to update your registration.

The required forms are available from the Council's web site at www.watford.gov.uk (under Electoral Registration) or the Electoral Commission at www.aboutmyvote.co.uk

Electoral Registration Helpline Telephone 01 923 278369



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