

PART A

Report to: Licensing Sub Committee
Date of meeting: 16 October 2017
Report of: Head of Community & Environmental Services
Title: Application for a new premises licence
Watford Convenience Store, 10 Market Street, Watford, Herts
WD18 0PD (17/01109/PRE)

1.0 SUMMARY

1.1 An application has been received from Mr Harmeet Sidana for a new premises licence in respect of Watford Convenience Store, 10 Market Street, Watford, Herts WD18 0PD to allow the sale of alcohol by retail for consumption off the premises. One representation has been received from the Police in their role as a Responsible 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:

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

3.0 APPLICATION

3.1 Type of authorisation applied for
Grant of a new premises licence.

3.2 Description of premises
The premises is a convenience store located in Market Street in a parade of shops and residential units.

3.3 Under Policy LP1, the proposed use would be defined as an off licence with the sale of alcohol for consumption away from the premises. The premises is located in Market Street and under policy LP2 this area is defined as falling within the town centre, meaning that policy LP3 also applies.

3.4 A map of the location of the premises is attached at appendix 1.
A plan showing the layout of the premises is attached at appendix 2.

3.5 Licensable activities

This application is requesting permission to provide the following licensable activities

Licensable activity	Permitted now	Applied for
Plays		
Films		
Indoor sporting events		
Boxing or wrestling entertainment		
Live music		
Recorded music		
Performances of dance		
Entertainment of a similar description to live or recorded music, or dance		
Provision of late night refreshment		
Sale of alcohol for consumption on the premises		
Sale of alcohol for consumption off the premises	√	√

Licensable hours

The hours proposed in this application are detailed in the following table:

	Proposed off sale of alcohol	Existing off sale of alcohol	Proposed opening hours	Existing opening hours
Monday	09:00-00:00	09:00-20:00	07:00-00:00	09:00-20:00
Tuesday	09:00-00:00	09:00-20:00	07:00-00:00	09:00-20:00
Wednesday	09:00-00:00	09:00-20:00	07:00-00:00	09:00-20:00
Thursday	09:00-00:00	09:00-20:00	07:00-00:00	09:00-20:00
Friday	09:00-00:00	09:00-20:00	07:00-00:00	09:00-20:00
Saturday	09:00-00:00	09:00-20:00	07:00-00:00	09:00-20:00
Sunday	09:00-00:00	09:00-20:00	07:00-00:00	09:00-20:00

4.0 **BACKGROUND INFORMATION**

4.1 The following background information is known about these premises:

Applicant

Mr Harmeet Singh Sidana

4.2 Proposed Designated Premises Supervisor

Mr Harmeet Singh Sidana

4.3 Current licences held

Although this particular application is for a new premises licence the premises does currently hold a licence with reference **16/00354/LAPRE**. This licence has been in force since 13 April 2016, and is also held by Mr Sidana. The hours for this licence are shown in the table at paragraph 3.6 for the Members to see that there is already an existing premises licence and so if the application is not granted the premises would still be able to continue to trade under their existing licence.

4.4 Closing date for representations

26 September 2017

4.5 Public notice published in newspaper

8 September 2017

4.6 Visits and enforcement action

There have not been any visits or enforcement action.

5.0 **PROMOTION OF LICENSING OBJECTIVES.**

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

6.0 **REPRESENTATIONS**

6.1 Responsible Authorities

Representations have only been received from the Police in their role as a responsible authority. The Police representations cite concerns about alcohol being available late into the night, both in terms of people pre-loading before going into town, or going away from town, street drinkers, anti-social behaviour and public nuisance. These representations are attached at appendix 4.

6.2 Other Persons

No representations were received from any other person.

7.0 **POLICY CONSIDERATIONS**

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

- Sections 17 and 18 (Application for premises licence):
Section 17 details the process which the applicant must have followed for the application to be considered valid. Section 18 describes the process by which an application for a premises licence is determined, including where relevant representations have been made as in this case.
- Sections 19 and 19A (Mandatory conditions):
Section 19 details the mandatory conditions that would apply if the sub-committee was minded to grant a licence authorising the supply of alcohol. Section 19A permits the Secretary of State to specify additional mandatory conditions which apply to all premises licences.
- 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.

7.2 Statutory guidance

The following provisions of the Secretary of State's guidance (March 2015) apply to this application:

Paragraphs 8.38 – 8.46:

These paragraphs explain how steps should be taken to promote the licensing objectives. It is for the Sub Committee to decide in the light of this guidance whether the measures offered by the applicant are appropriate to promote the licensing objectives. It is equally important to use the same measures 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 9.31 – 9.41:

These paragraphs explain that hearings should be focused 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 9.42 – 9.44

These paragraphs explain that when determining applications, the authority's determination should be evidence-based, as well as how to assess if a step is 'appropriate' for the promotion of the licensing objectives.

Chapter 10

This chapter looks at best practice in relation to conditions that may be attached to a premises licence should it be believed that such conditions are appropriate to promote the licensing objectives. Any additional conditions requested by any party should be considered with reference to this chapter.

7.3 Statement of licensing policy

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

- Policy LP1 – Premises Definitions

In accordance with the information as submitted with the application, officers would describe the premises 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. This premises is situated within the Town Centre (as defined in LP3) and this policy states that off-licences 'will generally be allowed alcohol sales until 8pm only'.
- 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. Point 4 of the policy states '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 the exceptions to LP3 can be shown'.
- Policy LP 6 (Prevention of Crime and Disorder)
This policy details the factors that will be considered when a relevant representation is received based on this licensing objective. The applicant has not provided any evidence that a crime prevention audit has been carried out at the premises as suggested by this policy.
- Policy LP 8 (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.

7.4 The Sub-Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the Borough.

7.5 The Sub-Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

8.0 **CONDITIONS**

8.1 Members will be aware that an operating schedule forms part of the licensing process. This document outlines what activities are proposed, the opening hours, and how the activities will be managed particularly in respect of the licensing objectives.

8.2 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.

8.3 Applicants should give consideration to the local area and reflect this in their application. It should demonstrate an awareness of the local community, local crime and disorder issues, and the local environment.

8.4 Conditions consistent with the operating schedule

The applicant has offered these conditions as part of their application.

The following conditions, being numbers 1 through 6, are identical to conditions which are on the existing licence for this premises.

1. No single cans or bottles of beer, lager or cider are to be sold at the premises. The minimum quantity which may be purchased at any time shall be two items.
2. The Premises Licence holder shall install and maintain a comprehensive CCTV system to the satisfaction of Hertfordshire Constabulary. The CCTV system shall continually record whilst the premises is open to customers. All recordings shall be stored for a minimum period of 31 days. Recordings shall be made available immediately upon the request of the Police or an authorised officer of the council throughout the preceding 31 day period.
3. At least one camera shall be installed and maintained to cover the rear yard of the premises.
4. The Premises licence holder shall ensure all staff are trained to prevent

underage sales. All staff training shall be recorded and updated every six months and these records shall be readily available for inspection by any authorised officer of a responsible authority (as defined by the Licensing Act 2003).

5. The Premises licence holder shall keep a log of any refused sale of alcohol and such records to be kept at the premises for at least twelve months and made available for inspection by an authorised officer or a responsible authority.
6. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.

The following conditions, being numbers 7 through 11, are conditions which officers believe are appropriate in promoting the licensing objectives, and are consistent with the applicant's operating schedule, in addition to those conditions listed above.

7. No beers, lagers or more than 6.5% ABV (alcohol by volume) shall be sold at the premises.
8. There shall be no sale of spirits in containers of a size of less than 200ml.
9. The premises licence holder shall ensure that a Challenge 25 policy is adopted on the premises at all times. Signage of the Challenge 25 policy shall be prominently displayed on the premises.
10. The premises licence holder shall ensure that staff training in the licence holder's age verification and ID procedure will be carried out every six months.
11. The refusals register shall be inspected on a regular basis by the designated premises supervisor and signed by the DPS to indicate that they have checked the register.

8.5 Conditions proposed by responsible authorities

The Police representations suggest a number of conditions which they would like attached to the premises licence should Members be minded to grant this application (see appendix 4).

As part of their representations the Police have proposed the following conditions which are similar to the applicant's operating schedule but are

more restrictive:

1. No single cans or bottles of beer, lager or cider are to be sold at the premises. The minimum quantity which may be purchased at any time shall be a pack of 4.
2. No super strength beer, lagers or ciders of more than 5.5% ABV shall be sold at the premises.
3. No miniature or quarter bottles of spirits of any kind.

It is noted that some of the conditions proposed by the Police are already matters which are contained within the applicant's operating schedule. However, the following proposed conditions are not duplicated within the operating schedule:

4. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premise is open the public. This staff member shall be able to show police recent data or footage with the absolute minimum of delay when requested.
5. There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
6. There shall be no promotional sales of alcohol at the premises where alcohol is sold at a price lower than that at which the same or similar alcoholic drinks are sold, or usually sold, on the premises.
7. Clearly visible signage is to be displayed at the entrances and at point of sale indicating it is illegal to sell alcohol to people under the age of 18.
8. The Premises Licence holder and the DPS will work closely with the police to identify and restrict the sale of alcohol to street drinkers, or persons known to be intoxicated.
9. There shall be no self-service of spirits on the premises.
10. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
11. Prominent signage indicating the premises hours for the sale of alcohol shall be displayed so as to be visible before entering the premises,

where alcohol is on public display, and at the point of sale.

12. The Premises Licence holder shall ensure that outside of hours authorised for the sale of alcohol, all alcohol within the trading area is to be secured behind locked grills/screens or secured behind locked cabinet doors to the satisfaction of the police or licensing authority.

8.6 Conditions proposed by Other Persons

None

8.7 Pool of Model Conditions

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

8.8 Officers do not consider that there are any conditions contained within the pool of model conditions which are appropriate to this application and the representations received.

8.9 Officers would ask Members to note the following when considering the conditions proposed by the Police:

Condition 5: The Licensing Act 2003 does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the DPS and the premises licence holder remain responsible for the premises at all times including compliance with the Act and conditions attached to the premises licence to promote the licensing objectives (Licensing Guidance paragraph 10.28). If members are minded to attach such a condition they should give good reasons to justify such a condition.

Condition 6: Members are advised to be cautious in attaching such a condition so that it does not prevent competition between this premises and others. There will be mandatory conditions attached to any licence granted under this application, and one of these conditions will require that no alcohol is sold for a price less than the aggregate of the duty and VAT paid on the alcohol (referred to as the 'permitted price'). Paragraphs 10.21 & 10.22 of the guidance deal with fixed prices. Paragraph 10.21 states that blanket conditions should not be considered, which is not an issue in this case, but also mentions that some controls are exercised through the mandatory conditions. Paragraph 10.22 states that requests for pricing controls can be considered on a case-by-case basis and should be tailored to the individual premises, although it does recommend that licensing authorities take legal

advice before pursuing any form of restrictions at all.

Condition 8: This condition, as proposed, is vague on detail and does not spell out what the licence holder and DPS are required to do in order to work with the Police and meet this condition. If such a condition is deemed appropriate, consideration should be given to giving clear direction of what is required otherwise the condition may be impossible to implement and enforce.

Condition 10: The application is only for the sale of alcohol for consumption off of the premises, therefore this does not need to be repeated in a condition. This condition could be modified to read as: "All sales of alcohol shall be in sealed containers only".

8.7 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.

8.8 A draft Premises Licence which reflects this application and the conditions which are proposed in the preceding paragraphs is attached at appendix 5.

9.0 **OFFICERS' OBSERVATIONS**

9.1 The Police representations make reference that this premises falls within a Sensitive Licensing Area (SLA) under policy LP4. Members are asked to note that this premises falls under policy LP3 as a Town Centre premises, although the premises is near to the boundary of the sensitive licensing area. The policy states that the justification for the approach taken under policy LP3 is to reduce the availability of alcohol being drunk on the streets ("preloading") during the evening.

9.2 As stated above, Policy LP3 is intended to be applied strictly. 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'.

9.3 To demonstrate whether they 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.

9.4 There is little evidence that this application does satisfy one of these tests. The proposed hours of operation do not suggest that the premises will contribute as a family friendly business. This application is for a new licence for a premises which is already licensed for the sale of alcohol, therefore this would not appear to be a reduction in the capacity of alcohol sales. The third test would be more relevant to an application for a restaurant or similar venue, and so does not apply in this case. Members are reminded that, in any case where any applicant wishes to be considered as an exception to policy, it is for the applicant to show why they should be considered as an exception and not on the Sub Committee to show why an exception should be made.

Members are able to depart from policy in circumstances where there are justifiable reasons from doing so, and after considering the individual merits of the application before them.

9.5 The Police representations refer to historical problems of street drinkers in Market Street which the Police and the council have been working to address. There have been on-going operations by the Police to manage the risk of anti-social behaviour. The Police express concerns that granting a licence without sufficient controls would be detrimental to this work and the licensing objectives. The Police are concerned that relaxing the conditions or hours could encourage a return of alcohol linked anti-social behaviour. The Police have cited an example of a local business in Market Street that has historically suffered in relation to street drinkers sitting outside on their steps, making it difficult and sometimes impossible for them to enter their place of work. The Police have proposed alternative times and conditions, particularly to do with the strength of alcohol and minimum quantity of cans that may be purchased at any time, but the Police and the applicant have not been able to reach an agreement or compromise on these matters. If Members are satisfied that the proposed alternative times and conditions are appropriate then these may be confirmed by being attached to the licence as conditions.

9.6 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.

9.7 The Sub-Committee are reminded that they have a duty to "have regard" to the licensing policy but are not bound by it. However, should Members wish to depart from the policy then detailed reasons for this must be given as part of any decision.

9.8 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 – 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 (Home Office April 2017)

Licensing Act (Hearings) Regulations 2005

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

Watford Borough Council Pool of Model Conditions (March 2013)

File Reference

Watford Convenience Store

Reviewed by

<i>Licensing</i>	
<i>Head of Community & Environmental Services</i>	<i>JH 5/10/17</i>
<i>Legal</i>	<i>CN 5/10/17</i>
<i>Finance</i>	
<i>Committee and Scrutiny Support Officer</i>	<i>JK 4/10/17</i>