

## PART A

**Report to:** Licensing Sub-Committee  
**Date of meeting:** 5 December 2018  
**Report of:** Head of Community & Environmental Services  
**Title:** Application for New Premises Licence  
Everett Rovers Football Club, Dodd Road, Watford, WD24 5FS

### 1.0 Summary

1.1 An application for a new Premises Licence has been received from Everett Rovers Football Club in respect of their clubhouse at Dodd Road, Watford WD24 5FS. The application is requesting permission to sell alcohol, to provide live and recorded music and entertainment which is similar to music and dancing, and to provide late night refreshment.

### 2.0 Risks

2.1

<b>Nature of Risk</b>	<b>Consequence</b>	<b>Suggested Control Measures</b>	<b>Response</b> <i>(Treat, tolerate, terminate, transfer)</i>	<b>Risk Rating</b> (the combination of severity and likelihood)
Appeal against decision by applicant or objectors	Decision overturned by the courts with potential of costs being awarded against council if decision is not justified or legal	Determination of application given with detailed reasons and after considering evidence before the Sub-Committee, the council's licensing policy, statutory guidance, and the legislation	Treat	2

Judicial review of decision by applicant, objectors, or consultees	Negative perception of the council and its licensing system	Hearing process held in accordance with the legislation, the statutory guidance, and the council's licensing policy, with both applicants and objectors being given fair chance to present their arguments to the Sub-Committee.	Treat	2
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### 3.0 Recommendations

- 3.1 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: Austen Young (Senior Licensing Officer) telephone 01923 278474: email: [austen.young@watford.gov.uk](mailto:austen.young@watford.gov.uk)

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

### 4.0 APPLICATION

- 4.1 Type of authorisation applied for  
New Premises Licence

- 4.2 Description of premises

The premises are described on the application as follows:

“The premises is single story [sic] detached clubhouse for Everett Rovers FC which will be used by members and the local community serving drinks and providing bar meals. It is situated within the grounds of the football club, with football pitches, the nearest residential property is over 100 meters [sic] away.”

4.3 Under Policy LP1, the proposed use would be defined as a ‘public house, wine bar or other drinking establishment’.

Although the use of the premises, and the operation of the premises, does mean that the club could qualify for a Club Premises Certificate (and it currently does), it is noted that this application is specifically for a Premises Licence, which would allow the use of the premises for club activities but also for use by the general public.

4.4 The premises is located just off North Western Avenue, on the edge of a large playing field, in a mix of residential and leisure/community use. Under Policy LP2, officers would consider this area to be a ‘residential area’.

Should the Sub-Committee determine, based upon the submissions put before them, that the current use of the area is different to the officer’s recommendation, then the Sub-Committee are asked to classify, with reasons, the use of the area.

4.5 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.

4.6 Licensable activities

This application is requesting permission to provide the following licensable activities

Licensable activity	Requested
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	✓

4.7 Licensable hours

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

	Sale of alcohol (on & off sales)	Regulated entertainment*	Late night refreshment	Opening hours
<b>Monday</b>	12:00 – 23:00	N/A	N/A	12:00 – 23:30

<b>Tuesday</b>	12:00 – 23:00	N/A	N/A	12:00 – 23:30
<b>Wednesday</b>	12:00 – 23:00	N/A	N/A	12:00 – 23:30
<b>Thursday</b>	12:00 – 23:00	N/A	N/A	12:00 – 23:30
<b>Friday</b>	12:00 – 00:00	12:00 – 00:00	23:00 – 00:00	12:00 – 00:30
<b>Saturday</b>	11:00 – 00:00	12:00 – 00:00	23:00 – 00:00	09:00 – 00:30
<b>Sunday</b>	11:00 – 22:30	12:00 – 22:00	N/A	09:00 – 23:00

\*Live music, recorded music, and entertainment similar to music and dancing

4.8 The application also requested the following non-standard hours:

**Playing of recorded music**

Christmas Eve – until 01:00

New Year’s Eve – until 01:00

**Sale of alcohol**

Christmas Eve – until 00:30

New Year’s Eve – until 00:30

**Opening hours**

Christmas Eve – until 01:00

New Year’s Eve – until 01:00

4.9 Members are reminded that due to the deregulation of entertainment by various pieces of secondary legislation, the premises will be able to play live and recorded music without restriction, and without the need for licensing, between 08:00 and 23:00 as long as they are licensed for the sale of alcohol for consumption on the premises during these times.

5.0 **Background information**

The following background information is known about these premises:

5.1 Proposed Designated Premises Supervisor

Melissa Preedy

5.2 Current licences held

The club currently holds a Club Premises Certificate (reference 17/00482/LAPREC), which has been in force since 24 May 2017. However, the building to which this certificate relates is still under construction, and therefore the club advises that the certificate has never been used.

Officers can advise that since the Club Premises Certificate was granted, the premises have held several events under temporary event notices (TENs). The details of these TENs are as follows:

- 8 July 2017 – temporary bar for youth football awards presentation day
- 3 June 2018 – temporary bar for football tournament
- 16 June 2018 – temporary bar for youth football tournament
- 19 -21 July 2018 – temporary bar for youth football awards presentation days

It is understood from the club that although they do hold this Club Premises Certificate, the application for a Premises Licence was submitted to allow the premises to operate with greater freedom. There are restrictions which come with a Club Premises Certificate, such as supplying alcohol only to club members and their bona fide guests, which they would like to depart from. Members may wish to question the club as to what they intend to do with the Club Premises Certificate should a Premises Licence be granted.

5.3 Closing date for representations

14 November 2018

5.4 Public notice published in newspaper

19 October 2018

5.5 Visits and Enforcement action

The premises has not been subject to any visits or enforcement action from the licensing authority in respect of its operation. However, it is acknowledged that the premises is not currently operating all of the time under a permanent licence.

6.0 **Promotion of the licensing objectives**

6.1 The operating schedule submitted by the applicant to describe the steps that they intend to take to promote the four licensing objectives is attached at Appendix 3A.

6.2 In response to the objections, which were forwarded to the club, they did provide an additional email for the attention of the objectors, which also contained details of how the club intend to operate. This email is attached at Appendix 3B.

6.3 With regards to Appendix 3B, Members are advised that the objector who had originally suggested a 9pm terminal hour for the hour sales has subsequently withdrawn their objection.

7.0 **Representations**

7.1 Responsible Authorities

No formal representations have been received from a responsible authority.

7.2 The Police did enter into discussions with the club with regards to amending the hours from the original application and to formalise conditions which would be attached to any licence, and also to agree additional conditions. These conditions

and hours were accepted by the club, and so no formal representations were accepted. The amended hours are the hours detailed in paragraphs 4.7 and 4.8.

### 7.3 Other Relevant Bodies

Representations have been received from the persons listed below.

Ref	Name	Address	Representative Body (Yes/No)	Relevance to which licensing objective(s)
A	Cristina Alonso-Mora & Andrew Orgar	Flat 5, 2C Dodd Road, Watford	No	Public nuisance, crime and disorder
B	Lucy Hunt	16 Ground Lane, Hatfield	No	Public nuisance, crime and disorder, public safety, protection of children from harm
C	Mark O’Gorman	Mowlam Court	No	Public nuisance

7.4 One other representation was received but later withdrawn.

7.5 These representations are attached at Appendix 4A, 4B and 4C.

7.6 The representations make reference to the proximity of the premises to their flats, or their partners’ flats, and concerns about littering on the playing fields, including broken glass. Other issues raised are a potential increase in vandalism to nearby property, the potential for noise nuisance from the music, and issues with parking. It is recognised that some of these issues concern the behaviour of patrons of the club leaving the premises, such as the concerns over vandalism and littering.

7.7 Officers can advise that the objectors were notified of the amendments to the application following the discussions with the Police, and that they were also notified of the operating schedule and additional information provided by the club (appendices 3A and 3B).

7.8 In response to being sent the club’s original operating schedule, one objector stated that they would prefer to see a start time for the sale of alcohol to be 17:00 or 18:00. This is referenced by the club in Appendix 3B. The objector also stated that they did not think that the club needs a licence to sell alcohol every day of the week, but did not suggest on which days they would find acceptable. Another objector stated that they did not want to see the licence granted because the club could not ensure that no anti-social behaviour is caused by patrons once they have left the premises.

7.9 At the time of writing this report, two objectors have replied to the email circulated to them on behalf of the club (the email attached at Appendix 3B). The objectors

state that they do still have concerns. One states that the 11:00 start time for alcohol sales is inappropriate and excessive, and they also suggest a curfew on the use of the patio area, with the suggested terminal hour being 21:00 or 22:00 hours, particularly on weekdays. The other objector also questioned if the club would operate a form of a terminal hour for the use of the patio.

7.10 The idea of granting a short-term or trial licence has been voiced in correspondence over this application. Officers wish to confirm that this option is not available to the Sub-Committee. A recent case (AEG Presents Limited v London Borough of Tower Hamlets) dealt with this very issue. While officers acknowledge that the decision in this case is not binding, the statutory guidance does not mention this is an option available to the Sub-Committee, and the legislation does not clearly state that this is a possible outcome either. Therefore, officers would advise that if the Sub-Committee decide to grant this application, then it should be granted for the full period of the licence sought by this application, which does not have an expiry date. This does not limit residents or responsible authorities in calling for a review of the licence should there be issues in the operation of the licence after grant.

## 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):  
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.

## 8.2 Statutory guidance

The following provisions of the Secretary of State's guidance (April 2018) apply to this application:

1. Paragraphs 8.41 – 8.49:  
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.

2. Paragraphs 9.31 – 9.41:

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.

3. 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.

4. 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.

5. Chapter 11

This chapter looks at when entertainment is and when it is not licensable. This chapter also confirms that licence conditions which relate specifically to entertainment are suspended (therefore have no effect) when certain criteria are met.

8.3 Statement of licensing policy

Officers confirm that because this application is to be processed under the council's statement of licensing policy for 2013-2018, because the application was received before the statement of licensing policy for 2018-2023 came into force.

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

6. Policy LP1 – Premises Definitions

In accordance with the information as submitted with the application, officers would describe the premises as a 'public house, wine bar or other drinking establishment'.

7. 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 on playing fields on Dodd Road, within a mixture of leisure/community and residential premises, therefore this will be considered to be a residential area and this policy states that public houses etc restaurants 'will be allowed alcohol sales to midnight only (other than for special occasions)'.
8. 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.
9. Policy LP 7 (Public Safety)  
This policy details the factors that will be considered by the Sub-Committee when a relevant representation is received based on this licensing objective. However, this acknowledges that conditions should not duplicate, enhance, or 'gold-plate' existing health and safety requirements except in specific circumstances.
10. Policy LP 8 (Public Nuisance)  
Under this policy the Sub-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.
11. Policy LP9 (Protection of Children from Harm)  
This policy details the approaches expected from applicants to promote this licensing objective, and what factors the Sub-Committee will take into account when considering concerns under this objective.
12. 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 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.

8.5 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.

## 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, and 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. It should demonstrate an awareness of the local community, local crime and disorder issues, and the local environment.
- 9.4 Conditions agreed with responsible authorities  
During the consultation period, the club agreed the following conditions with the Police:

1. To install and maintain a comprehensive CCTV system to the satisfaction of Hertfordshire Constabulary. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
2. 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 premises is open to the public. This staff member shall be able to show Police recent data or footage with the absolute minimum of delay when requested.
3. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
4. No alcohol is to be consumed on the fields past the designated patio area.
5. The Premises Licence holder shall ensure that all alcohol which is consumed on the designated patio area must be in drinking vessels which are made of polycarbonate, plastic, or shatterproof glass.

6. No alcohol in any open containers shall be permitted to be taken off of the premises (for this condition, the premises includes the patio area).
7. Kegs, bottles, barrels, crates and other similar items are to be securely stored.
8. In addition to any other training, a member of staff shall ensure all staff are trained to prevent underage sales.
9. Clearly visible signage is to be displayed at the entrances and at points of sale indicating it is illegal to sell alcohol to people under the age of 18.
10. The premises must implement a "Challenge 25" policy whereby all customers who appear to be under 25 and are purchasing alcohol must produce photographic ID in the form of a passport, driving licence or Proof of Age Scheme (PASS) approved ID.
11. No children under the age of 18 years allowed to enter the club house after 8pm, unless accompanied by an adult.
12. All children under the age of 7 years must be accompanied by an adult in the club house.

It is noted that some of these conditions were measures that the club included within their original operating schedule.

#### 9.5 Conditions consistent with the operating schedule

Officers do propose that the following condition, included by the club in their response to the objectors, would be appropriate to be attached to the licence for the promotion of the licensing objectives, and also in response to the representations which have been received, and that this condition would be reasonably consistent with the club's operation:

1. Notices shall be prominently displayed at all entrances and exits to the car park associated with this premises advising patrons to only park in the premises' car park.

9.6 Officers would also propose that the licence plan of the premises be highlighted in such a way to confirm that live music, recorded music, and entertainment which is similar to music and dancing, are only permitted within the main club room. It is noted that the original application requested permission to play music both indoors and outdoors, with the only outdoor area being shown on the plan being the outside patio area. Officers would consider that it is appropriate to modify the conditions of the licence in this manner due to the representations which have been received.

While this would not prevent the club from having music outside between 08:00 and 23:00, subject to the activity meeting the criteria for entertainment which does not need licensing, it would establish a firm cut-off time for music outside at 23:00.

9.7 Conditions proposed by other objectors

In addition to the reduced hours, one objector has suggested a curfew on the use of the outside patio area, with this not being able to be used from either 21:00 or 22:00 hours, particularly on weekdays.

9.8 Pool of Model Conditions

In addition to any conditions proposed by the responsible authorities or objectors, the licensing authority also has its own pool of model conditions that may help mitigate the concerns raised in the representations. Officers would consider that the following condition, based upon the pool of model conditions, is appropriate to be attached to any licence granted in respect of this premises, based upon the representations received:

1. The doors which lead onto the outside patio area shall be kept closed between 23:00 hours and 09:00 hours, except for the immediate access and egress of persons.

9.9 In response to the objector's suggested condition controlling the use of the patio area, officers advise that section 8 of the pool of model conditions contains suggestions regarding use of outside areas and seating. The Sub-Committee are advised to consider certain factors in order to determine which condition or conditions would be most appropriate if they determine that the activities of the club will pose a risk to the licensing objectives. One factor to consider is the design and structure of the patio area, which may mean that a condition requiring tables and chairs to be cleared from the outside area may not be feasible if the furniture is fixed and clearance may in itself cause disturbance. Another factor to consider is that prohibiting the use of the outside area completely would mean that patrons would be prohibited from going outside to smoke, which may in turn lead to incidents with customers who do wish to smoke.

9.10 Any condition should be intended to put limits on the use of the outside area, therefore mitigating the risk of substantial nuisance from this activity.

9.11 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.

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

## 10.0 **Officers' observations**

- 10.1 The representations mention that they have specific concerns about anti-social behaviour caused by patrons of the club, specifically in relation to concerns about groups of people gathering around the nearby flats, parking in residential parking bays, causing litter on the playing fields, and vandalising property.
- 10.2 Members are reminded that paragraph 2.21 of the statutory guidance states the following:
- “Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.”
- 10.3 Members are asked to note that the club did volunteer putting signage on display asking patrons to respect the needs of nearby residents; a step which was also agreed with the Police as a licence condition.
- 10.4 Members will need to consider what steps, if any, are appropriate for the club to put in place whereby they could influence the behaviour of patrons when leaving or entering the premises, which could form the basis of any conditions to be attached to this premises licence. While it is understood that people are responsible for their own actions when outside of the control of the premises, the guidance does state that signage is appropriate in order to direct people towards a suitable level of behaviour or standard, which therefore may influence their actions.
- 10.5 The question of need is raised in the representations submitted against this application. Members are reminded that need is not something that the licensing sub-committee can take into account, as stated in paragraph 14.19 of the statutory guidance:
- “There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.”
- 10.6 Members are reminded that there is no cumulative impact policy in place for this particular area of the Borough.

- 10.7 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.
- 10.8 Members are also to attach whatever weight they see fit to both the submissions of the applicant, and to the submissions of the objectors, when considering this application.
- 10.9 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.
- 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.

#### Appendices

Appendix 1 – Location plan

Appendix 2 – Layout plan

Appendix 3A – Operating schedule

Appendix 3B – Additional operating schedule from applicant

Appendix 4A – Representations from Alonso-Mora and Orgar

Appendix 4B – Representations from Hunt

Appendix 4C – Representations from O’Gorman

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 2018)

Licensing Act (Hearings) Regulations 2005

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

Watford Borough Council Pool of Model Conditions (January 2018)