

## PART A

**Report to:** Licensing Sub Committee  
**Date of meeting:** Wednesday, 10 June 2020  
**Report of:** Senior Licensing Officer (AY)  
**Title:** Application for a new Premises Licence - Soralina (Candy & Cocktails), 132 Ridge Lane, Watford WD17 4SY

### 1.0 Summary

- 1.1 An application has been made by Soral Chavda for a new premises licence for 132 Ridge Lane, Watford WD17 4SY.
- 1.2 During the consultation period representations against this application were received from local residents.
- 1.3 Members are reminded that representations are only relevant if they relate to one or more of the licensing objectives. The four licensing objectives are;
- the prevention of crime and disorder
  - the prevention of public nuisance
  - public safety
  - the protection of children from harm

### 2.0 Risks

Nature of Risk	Consequence	Suggested Control Measures	Response <i>(Treat, tolerate, terminate, transfer)</i>	Risk Rating (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	Determination of application given with detailed reasons and after considering evidence before the	Treat	2

	not justified or legal	committee, the Council's licensing policy, statutory guidance, and legislation		
Judicial review of decision by applicant, objectors, or consultees	Negative perception of the council and its licensing system	Treat 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 committee	Treat	1

### 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:

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**Report approved by:** Justine Hoy, Head of Community Protection

#### 4.0 **Application**

#### 4.1 **Type of authorisation applied for**

4.2 Application for a new premises licence. The original application is attached at appendix 1.

#### 4.3 **Description of premises**

4.4 The premises are an outbuilding situated in the garden of the residential property at 132 Ridge Lane, Watford.

4.5 Under Policy LP1, the proposed use would be defined as an 'off-licence', in that the only proposed activity is the sale of alcohol for consumption off the premises.

4.6 The premises is located within a residential neighbourhood, with residential properties neighbouring the premises. Under Policy LP2, the premises would be defined as being located within a residential area.

4.7 A plan showing the layout of the premises is attached at appendix 2.

4.8 A map of the location of the premises is attached at appendix 3.

#### 4.9 **Licensable activities**

4.10 This application is requesting permission to provide the following licensable activities

<b>Licensable activity</b>	<b>Requested</b>
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	✓

#### 4.11 **Licensable hours**

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

	<b>Sale of Alcohol</b>	<b>Opening Hours</b>
Monday	09:00 – 20:00	09:00 – 20:00
Tuesday	09:00 – 20:00	09:00 – 20:00
Wednesday	09:00 – 20:00	09:00 – 20:00
Thursday	09:00 – 20:00	09:00 – 20:00
Friday	09:00 – 20:00	09:00 – 20:00
Saturday	09:00 – 20:00	09:00 – 20:00
Sunday	09:00 – 20:00	09:00 – 20:00

4.13 The application does not request any non-standard timings or seasonal variations for the provision of licensable activities or opening hours.

5.0 **Background information**

5.1 The following background information is known about these premises

5.2 **Proposed Designated Premises Supervisor**

5.3 Soral Chavda

5.4 **Closing date for representations**

5.5 15 May 2020

5.6 **Public notice published in newspaper**

5.7 24 April 2020

5.8 **Visits and Enforcement action**

5.9 The committee have requested that we note the history of visits and enforcement actions. There is no history of visits or enforcement action against this premises, although it must be noted that the premises are not currently licensed.

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 licensing objectives is included within the application form attached at appendix 1.

6.2 As a result of discussions with the responsible authorities, members are advised that the operating schedule has been amended since the application was originally made. These amendments and any conditions agreed with the responsible authorities are detailed later in this report.

## 7.0 Representations

### 7.1 Responsible Authorities

7.2 The Police and applicant agreed a number of conditions to be attached to any licence granted following this application, and as a result of this agreement, the Police did not submit any formal representations. These conditions are covered later in the report.

7.3 No other responsible authority submitted representations or agreed any additional steps with the applicant.

### 7.4 Other persons

7.5 Representations have been received from the persons listed below.

Ref	Representative Body (Yes/No)	Representations made on which licensing objective(s)
A	No	Public Nuisance, Protection of Children from Harm
B	No	Public Nuisance
C	No	Crime and Disorder, Public Nuisance
D	No	Crime and Disorder, Public Nuisance
E	Yes	Public Nuisance
F	No	Crime and Disorder, Public Nuisance, Protection of Children from Harm

7.6 These representations are attached at Appendix 4.

7.7 Officers are aware that some of the representations submitted concern the need for planning permission for the premises. Members are reminded that planning and licensing are separate regimes, administered under differing legislation and considered under differing policies. Members are reminded that the planning authority were consulted on this application and made no representations.

7.8 The objectors have been made aware of the conditions that were agreed with the Police. Some objectors replied to these conditions expanding upon their original representations, or with additional queries. Where this is the case, their replies have been included alongside their original representations. At the time of writing this report, not all objectors had acknowledged response of receipt of the conditions agreed with the Police.

7.9 In accordance with Policy LP11, officers can advise that representations from two parties were rejected. One was rejected as a frivolous representation because it did not provide any reasons for the objection, and the other was rejected because it was received after the consultation period had closed.

## 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:

- Paragraph 2.21:  
This paragraph explains that beyond the immediate area surrounding the premises, individuals are responsible for their own actions and are accountable in their own right. However, it may be reasonable for premises to display signage to inform customers to respect the rights of people living nearby, for example.
- Paragraphs 3.8 – 3.10:  
These paragraphs focus on remote sales of alcohol and delivery of alcohol, and confirms that it is the premises where the alcohol is appropriated to the contract (i.e. the place where the alcohol is set aside for delivery to the purchaser) which requires licensing.
- 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.

- 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.
- 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.

### 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 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 policy states that off-licences within residential areas 'will generally be allowed alcohol sales in accordance with the normal opening hours of the shop'.

- Policy LP6 – Prevention of crime and disorder:  
Under this policy the committee will consider any necessary measures to deal with the potential for crime and disorder where relevant representations have been received, and this policy highlights areas of particular concern.

- Policy LP 8 – Prevention of public nuisance:  
Under this policy the committee will consider any necessary measures to deal with the potential for public nuisance and/or antisocial behaviour where relevant representations have been received.
- Policy LP9 – Protection of children from harm:  
This policy details the factors that will be considered when a relevant representation is received based on this licensing objective.
- 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 The applicant's operating schedule for this application can be found in their application, which is attached at appendix 1.
- 9.5 Officers can advise that the original operating schedule mentions that people will only be allowed on the premises to collect purchases or to take part in

masterclasses. This proposal for masterclasses is also mentioned in the representations. Officers can advise that following discussions with the Police, the applicant advised that they would no longer be pursuing the option of masterclasses at this time.

**9.6 Conditions agreed with responsible authorities**

**9.7 During the consultation period, the applicant agreed the following conditions with the Police:**

1. The Premises Licence holder or Designated Premises Supervisor shall ensure that orders of alcohol are dispatched to bona fide addresses only.
2. The Premises Licence holder shall advertise their age verification policy online, and inform customers before the sale is completed that age and identity verification may be required at delivery in accordance with the Premises Licence holder's age verification policy.
3. All orders of alcohol shall only be accepted if they are made remotely.
4. The Premises Licence holder shall ensure that customers may only attend the premises in person by prearranged single time slot appointment only.

**9.8 Conditions consistent with the operating schedule**

**9.9** The applicant has offered the following measure in their operating schedule:

An A4 sized notice will be displayed on the premises as well as notices to come and leave the premises quietly

Officers would consider that attaching such a condition is appropriate given the comments included in the representations, and would propose the following condition which is based upon a similar condition from the council's pool of model conditions:

1. A notice shall be prominently displayed on the premises requesting customers to respect the needs of local residents and leave the area quietly.

**9.10 Conditions proposed by other objectors**

**9.11** Although there are no specific conditions proposed by the objectors, the representations at Appendix 4B do raise queries over the wording of the conditions agreed with the Police, particularly with regards to the conditions regarding delivery to bona fide addresses and how alcohol sales are made remotely. Members may

wish to consider changing the wording of these conditions to make them clearer and address the concerns raised in the representations.

9.12 **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.

9.13 Officers have not identified any specific conditions from the pool of model conditions which are considered to be appropriate or the promotion of the licensing objectives in this case.

9.14 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.

9.15 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 As relevant representations in respect of this application have been received, and which have not been withdrawn, the Licensing Sub-Committee acting on behalf of the licensing authority must make a determination on this application.

10.2 Officers can advise that mediation was offered in this case, but not all objectors took up the offer of mediation and instead wished to exercise their right of putting their representations to a sub-committee.

10.3 The conditions consistent with the operating schedule may be modified to alter or omit any of them or to add any new condition, including restricting the times at which licensable activities may be permitted by the premises licence.

10.4 Some of the representations mention the possibility of a covenant applying to the land which may restrict the use of the land for commercial purposes. Officers must advise that this is not a matter which can be taken into consideration when determining a licensing application. It has not been confirmed that such a covenant does apply to the land or not, but even should such a covenant exist, restrictive covenants are private matters between the land owner and the person who benefits from the covenant.

10.5 Some of the representations raise concerns over the operating hours, and refer to the operating of other premises. Members are reminded that there are no set licensing hours under the Licensing Act 2003, and each application must be

considered on its own merits. Those objectors who raised these matters have been advised as such.

- 10.6 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.
- 10.7 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.
- 10.8 The Sub-Committee is reminded that it has a duty to "have regard" to the licensing policy but is 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 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.
- 10.10 It is important that a licensing authority should give reasons for its decision in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal.

## **Appendices**

Appendix 1 – Application form

Appendix 2 – Layout plan

Appendix 3 – Map of location

Appendix 4 – Representations

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 2018 – November 2023)

Watford Borough Council Pool of Model Conditions (January 2018)