

PART A

Report to: Licensing Sub Committee
Date of meeting: Wednesday, 8 September 2021
Report of: Senior Licensing Officer (AY)
Title: Application for a new Premises Licence - Mad Squirrel, 3 King Street, Watford WD18 0BW

1.0 Summary

1.1 An application has been made by Mad Squirrel Tap Watford Ltd for a new premises licence for the premises at 3 King Street, Watford WD18 0BW. The premises will be known as Mad Squirrel.

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 of 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

2.1	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 objector	Decision overturned by the courts with potential of costs being awarded against council	Determination of application given with detailed reasons and after considering	Treat	2

	if decision is not justified or legal	evidence before the 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 application**

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 is situated on King Street. The premises is not currently licensed but has previously been licensed and run as a restaurant.

4.5 Under policy LP1, the proposed use would be defined as a 'public house, wine bar or other drinking establishment' involving the sale of alcohol and food for consumption on the premises, but not limited to waiter/waitress service such as a restaurant. It is acknowledged that the applicant's style of operation also includes specific off-sales provision, not just for people to consume drinks outside of the premises but to take home as well.

4.6 The premises is within the Town Centre Sensitive Licensing Area (policy LP4). The area is a mix of commercial and residential properties, primarily with commercial use at ground floor and residential on upper floors. It is noted that the parties who have objected to this application live in the flats above this premises. For the purpose of Policy LP2, the premises falls within the Town Centre being located inside the ring road.

4.7 A map of the location of the premises is attached at appendix 2.

4.8 **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	✓

4.9 The application has been amended since it was originally submitted to remove the request to provide live and recorded music. Although these activities are included on the original application, they no longer form part of the application.

4.10 **Licensable hours**

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

	On-sales of Alcohol	Off-sales of Alcohol	Opening Hours
Monday	10:00 – 23:30	10:00 – 23:30	10:00 – 00:00
Tuesday	10:00 – 23:30	10:00 – 23:30	10:00 – 00:00
Wednesday	10:00 – 23:30	10:00 – 23:30	10:00 – 00:00
Thursday	10:00 – 23:30	10:00 – 23:30	10:00 – 00:00
Friday	10:00 – 23:30	10:00 – 23:30	10:00 – 00:00
Saturday	10:00 – 23:30	10:00 – 23:30	10:00 – 00:00
Sunday	10:00 – 23:30	10:00 – 23:30	10:00 – 00:00

4.11 The application does not request any non-standard timings or seasonal variations to the hours stated above. For the avoidance of doubt, the hours listed above are the current hours for consideration. The application has been amended since it was originally submitted which is why the hours on the application at appendix 1 differ from the above.

5.0 **Background information**

5.1 The following background information is known about the premises

5.2 **Proposed Designated Premises Supervisor**

5.3 Jack-Louis Blesson

5.4 **Closing date for representations**

5.5 11 August 2021

5.6 **Public notice published in newspaper**

5.7 16 July 2021

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. The premises has previously been licensed but under different operators to the applicant for this 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 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 this report. The Police also agreed changes to the licensable hours and opening hours. The agreed hours are detailed in the table at paragraph 4.10.

7.3 Environmental Health did submit representations against this application, but after agreeing conditions regarding rubbish collection and deliveries to the premises, and after the application was amended to remove the request to provide live and recorded music as licensable activities, their representations were withdrawn. The agreed conditions are covered later in this report.

7.4 No other responsible authority submitted representations against this application or agreed any additional steps with the applicant.

7.5 **Other Relevant Bodies**

7.6 Representations have been received from the persons listed below:

Ref	Name	Address	Representative Body (Yes/No)	Relevance to which licensing objective(s)
3A	Norbert Hunyadi	1 King Street	No	Public nuisance, public safety, crime and disorder
3B	Imran Omar & Sarah Omar	1 King Street	No	Public nuisance, public safety, crime and disorder
3C	Gloria Robinson	1 King Street	No	Public nuisance

These representations are attached at Appendix 3A through 3C.

7.7 All of these objectors are residents of 1 King Street, which is a block of flats situated above this premises and the other commercial units located from 132 – 136A High Street, Watford, and 1 – 9 King Street. All parties have been made aware of the conditions agreed with the Police and Environmental Health, the amended hours, and the removal of live and recorded music as licensable activities. At the time of writing this report the objectors have either advised that they wish their representations to still stand, or have not replied to requests to confirm if the amended application addresses the concerns raised in their representations.

8.0 **Policy considerations**

8.1 **Licensing Act 2003**

8.2 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)
These sections detail the mandatory conditions that would apply if the Sub-Committee was minded to grant a licence authorising the supply of alcohol.
- 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.

8.3 **Statutory guidance**

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

- Paragraphs 2.15 - 2.21
These paragraphs concern the licensing objective of the prevention of public nuisance and give guidance on how it should be interpreted. With specific regards to noise, these paragraphs state that conditions will usually concern steps to control noise emanating from the premises and should focus on the most sensitive periods.

These paragraphs also explain 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 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.

- Chapter 16

This chapter looks at what entertainment is licensable as 'regulated entertainment' and when it is not.

Paragraphs 16.26 – 16.29 cover live music, and paragraph 16.33 covers recorded music.

8.5 **Statement of licensing policy**

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

- Policy LP1 – Premises definitions
Under this policy, officers would define this premises as a ‘public house, wine bar or other drinking establishment’
- 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 public houses, wine bars or other drinking establishments in the town centre (meaning within the ring road) ‘will generally be allowed alcohol sales to midnight only, and until 10.30 pm on Sunday (other than for special occasions)’

- Policy LP6 – Prevention of crime and disorder
Under this policy the committee will consider any appropriate 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 LP7 – Public safety
Under this policy the committee will consider any appropriate measures to protect or promote public safety where relevant representations have been received, but not with the intention of duplicating legislative requirements already in place on premises through health and safety legislation or fire safety legislation, nor will it attempt to gold-plate existing requirements except in limited circumstances.
- Policy LP8 – Prevention of public nuisance
Under this policy the committee will consider any appropriate measures to deal with the potential for public nuisance and/or antisocial behaviour where relevant representations have been received.
- Policy LP11 – Representations against applications
This policy recommends the type of information that should be included in a representation. It also explains how representations will be dealt with.

- 8.7 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.
- 8.8 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 original operating schedule for this application can be found in their application attached at appendix 1. However, it must be acknowledged that the operating schedule has been amended since it was originally submitted.

9.5 **Conditions agreed with responsible authorities**

9.6 **Conditions agreed with the Police**

9.7 The following conditions have been agreed between the applicant and the Police which would be attached to any premises licence granted under this application:

1. The premises shall install and maintain a CCTV system. All entry, exit and point of sale areas will be covered by the cameras, and the images shall enable frontal identification of every person entering in any light condition. The system shall continually record whilst the premises is open for licensable activities and during all times when staff and 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 to a Police officer or an authorised officer of the licensing authority upon request throughout the preceding 31 day period, providing that such requests are in connection with the prevention or detection of crime.
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 are open to the public. This staff member shall be able to show a Police officer or an authorised officer of the licensing authority data or footage upon request. The premises shall keep a suitable store of necessary recording media (such as DVD's, SD cards or similar) to enable footage to be recorded from the CCTV

system and provided to an authorised officer of the licensing authority or Police officer upon demand.

3. In addition to any other training, the premises licence holder shall ensure all staff are trained to prevent underage sales, to maintain the refusals book, enter sales correct on the tills so the prompts show when appropriate, and monitor staff to ensure their training is put into practice.
4. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
5. All sales of alcohol for consumption off the premises shall be in sealed containers, except for alcohol supplied to be consumed outside the premises by patrons seated within an area authorised under a pavement licence issued by Watford Borough Council.
6. Clearly visible signage is to be displayed at the entrances indicating it is illegal to sell alcohol to people under the age of 18.
7. A log (which may be electronically recorded) shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff who refused the sale. The log shall be available for inspection at the premises by the police or an authorised officer of the licensing authority at all times whilst the premises are open.
8. An incident log shall be kept at the premises for at least 12 months, and made available on request to an authorised officer of the licensing authority or the Police, which will record the following:
 - (a) all crimes reported to or by the premises to the Police
 - (b) all ejections of patrons
 - (c) any complaints received relating to crime and disorder
 - (d) any incidents of disorder
 - (e) seizures of drugs or offensive weapons
 - (f) any failures or faults in the CCTV system
9. The Premises must implement a “Challenge 25” policy whereby all customers who appear to be under 25 must produce photographic identification in the form of a passport, driving licence or Proof of Age Scheme (P.A.S.S) approved identification before being allowed to purchase alcohol.

9.8 It was also agreed following correspondence with the Police to amend the licensable hours requested in the original application. These hours are those shown in the table at paragraph 4.10 of this report.

9.9 **Conditions agreed with Environmental Health**

9.10 The following conditions have been agreed between the applicant and Environmental Health which would be attached to any premises licence granted under this application:

1. All waste shall be presented for collection from the premises on Sunday evening for collection from 06:00 hours on Monday/Tuesday. No rubbish will be picked up between 21:00 hours and 05:59 Hours during Monday to Sunday.
2. Deliveries to the premises shall be restricted to the hours of 09:00 hours to 21:00 hours on Monday to Friday, 09:00 hours to 13:00 hours on Saturdays, and no deliveries on Sundays and Bank Holidays.

9.11 **Conditions proposed by other objectors**

9.12 There are no conditions proposed by any other parties to this application.

9.13 **Conditions consistent with the operating schedule**

9.14 Officers do not propose any additional conditions which are consistent with the applicant's operating schedule. It is acknowledged that some of the conditions agreed with the Police, specifically relating to CCTV, 'Challenge 25', maintaining refusals and incident logs, are similar to steps volunteered in the applicant's original operating schedule.

9.15 **Pool of Model Conditions**

9.16 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.

9.17 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.

9.18 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.

9.19 A draft Premises Licence which reflects this application and the conditions which are proposed in the preceding paragraphs is attached at Appendix 4.

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 are aware that the representations make specific mention of concerns over the provision of music. Since the representations were originally received, the application has been amended to remove the elements of the provision of live and recorded music as licensable activities. The objectors have been advised of this point and that, due to the deregulation of live and recorded music in licensed venues, this does not mean that the premises are not allowed to play music at all but may only do so until 11pm. Members are reminded of this point as well, and are advised to disregard comments regarding disturbance from music as being relevant to this application since the activity does not require a licence.
- 10.3 Officers can advise that mediation was offered in this case, but at the time of writing this report no party had advised that they would like to take up this offer. However, it is acknowledged that there was correspondence between the applicant and residents in reply to their representations. These comments were passed on to the objectors by officers as being relevant to the application and their representations.
- 10.4 The representations mention concerns over noise from customers, including noise from people from other premises using King Street to pick up their taxis. Members are reminded that their deliberations should be focussed upon the individual merits of this application and the particular use of this premises, and not the cumulative impact of a number of premises in the area.
- 10.5 Members are also reminded of paragraph 2.21 of the statutory guidance regarding noise from patrons and customers. This paragraph states:

“Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in antisocial 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.”

It is noted that a condition has already been proposed to require the display of signage encouraging customers to respect the needs of local residents and leave the area quietly.

- 10.6 The representations mention concerns over fire safety. Officers did seek advice on this issue from Hertfordshire Fire & Rescue Service as experts in this field. They advised that it is a requirement for there to be 60 minutes fire resistance provided between the unit and the living accommodation above. Members are also reminded that it is a legal requirement for businesses to carry out a fire risk assessment to identify and mitigate risks. Failure to carry out a risk assessment or to properly manage fire risks may result in enforcement action being carried out by the fire service. No representations were submitted by the fire service in response to this application. Members are reminded that we should not seek to duplicate existing legal requirements or legislation when considering a licence application.
- 10.7 Members are reminded that both applicants and objectors have the right to expand upon their original submissions, but should not introduce new evidence unless provided and circulated before the hearing, or introduced at the hearing with the agreement of all parties present.
- 10.8 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.
- 10.9 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.
- 10.10 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.
- 10.11 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.
- 10.12 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

Appendix 2 – Location plan
Appendix 3 – Representations
Appendix 4 – 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 (April 2021 – November 2023)

Watford Borough Council Pool of Model Conditions (January 2018)