

PART A

Report to: Licensing Sub Committee
Date of meeting: Thursday, 6 October 2022
Report of: Licensing Officer (PS)
Title: Application for a new premises licence - SSS Food & Drinks, 98 Queens Road Watford WD17 2NX

1.0 Summary

1.1 An application has been made by SSS Food & Drinks Ltd for a new premises licence for the premises at 98 Queens Road Watford WD17 2NX. The premises is to trade as SSS Food & Drinks.

1.2 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
- public safety
- the prevention of public nuisance
- the protection of children from harm

1.3 During the consultation period representations against this application have been received from local residents and businesses, both in support of and opposing the application.

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 objector	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 licensing objectives) as set out in the report.

Contact Officer:

For further information on this report please contact: Parminder Seyan telephone: 01923 278434 email: parminder.seyan@watford.gov.uk

Report approved by:

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 Queens Road. The premises is not currently licensed.

4.5 Under Policy LP1, the premises would be defined as an off licence involving sale of alcohol off the premises. All off sales will be either over the counter or via internet delivery.

4.6 Under policy LP2, the premises is defined as falling within a residential area. The area is a mix of commercial and residential properties with residential flats just opposite the premises.

4.7 The premises falls within the Queens Road Sensitive Licensing Area (policy LP4).

4.8 A map of the location of the premises is attached at appendix 2

4.9 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	√

4.10 Licensable hours

For clarification, the application for premises licence was originally submitted for 24 hours and has been mentioned in the objections. However it can be confirmed that the application and site notice were amended and members are required to determine an application with the following hours:

	Off-Sales of alcohol	Opening hours
Monday	08:00 - 23:00	08:00 - 23:00
Tuesday	08:00 - 23:00	08:00 - 23:00
Wednesday	08:00 - 23:00	08:00 - 23:00
Thursday	08:00 - 23:00	08:00 - 23:00
Friday	08:00 - 23:00	08:00 - 23:00
Saturday	08:00 - 23:00	08:00 - 23:00
Sunday	08:00 - 23:00	08:00 - 23:00

4.11 The applicant proposes that the shop site 98 Queens road will only open for retail sales over the counter and a collection point for delivery drivers during the hours of 08.00 to 23.00 daily.

4.12 The application does not request any non-standard timings or seasonal variations to the hours stated above.

5.0 **Background information**

5.1 The following background information is known about the premises

5.2 **Proposed Designated Premises Supervisor**

5.3 Sheetal Mohammad

5.4 **Closing date for representations**

5.5 14 September 2022

5.6 **Public notice published in newspaper**

5.7 26 August 2022

5.8 **Visits and Enforcement action**

5.9 The committee has requested that officers 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 is 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 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 No other responsible authority submitted representations against this application or agreed any additional steps with the applicant.

7.4 Other Persons

Representations have been received from the persons listed below.

Ref	Representative Body (Yes/No)	Relevance to which licensing objective(s)
3A	No	Crime & Disorder, Public nuisance, Public Safety and Protection of children from harm
3B	No	Public nuisance, Protection of children from harm
3C	No	Crime & Disorder, Public nuisance
3D	No	Crime & Disorder, Public nuisance
3E	No	Crime & Disorder, Public nuisance, Protection of Children from harm
3F	No	Crime & Disorder
3G	No	Crime & Disorder
3H	No	Crime & Disorder, Public Nuisance and Protection of Children from harm
3I	No	Crime & Disorder, Public Nuisance
3J	No	Public nuisance
3K	No	Crime & Disorder, Public Nuisance
3L	No	Crime & Disorder, Public Nuisance
3M	No	Crime & Disorder, Public Safety, Public Nuisance
3N	No	Crime & Disorder, Public Nuisance and Public Safety
3O	No	Crime & Disorder, Public Nuisance
3P	No	Crime & Disorder, Public Nuisance

3Q	No	Crime & Disorder , Public Nuisance
3R	No	Public Nuisance
3S	No	Public Nuisance
3T	No	Public Nuisance
3U	No	Public Safety
3V	No	Public Nuisance
3W	No	Crime & Disorder
3X	No	Public Nuisance
3Y	No	Crime & Disorder
3Z	No	Crime & Disorder, Public Nuisance
3AA	No	Crime & Disorder
3AB	No	Public Nuisance, Protection of children from harm
3AC	No	Public Nuisance, Protection of children from harm
3AD	No	Public Nuisance

7.5 The above representations are attached at Appendix 3A through to 3AD.

7.6 Representation in support have been received from the persons listed below at appendix 4A to 4C.

Ref	Representative Body (Yes/No)
4A	No
4B	No
4C	No

7.7 All parties have been made aware of the conditions agreed with the Police and the amended hours. The objectors have been made aware of the hours and conditions that were agreed with the Police. Some objectors replied to this correspondence expanding upon their original representations or with additional queries. Where this is the case, their replies have been included alongside their original representations.

7.8 At the time of writing this report the objectors have either advised that they wish their representations to still stand or have not confirmed that their representations are to be withdrawn and therefore must still be considered.

7.9 Information was presented with the representations that has been restricted for data protection purposes. Officers can advise that all parties have been made aware of this information. This information also included videos which have been circulated to all parties separately outside of this report.

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):

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

8.2 **Statutory guidance**

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

Paragraphs 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 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 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 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.

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, officers would define this 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 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 LP4 – Sensitive Licensing Areas

The premises are located on Queens Road within a Sensitive Licensing Area (SLA). SLAs were originally introduced to recognise community concerns about the impact that a concentration of licensable activities in a small geographical area has on the licensing objectives. This includes:

- (1) availability of stronger-strength alcohol to street drinkers leading to anti-social behaviour in the immediate vicinity of the premises
- (2) alcohol and/or late night refreshment being available at times that are significantly different from other premises in that area likely to have an adverse impact on the licensing objectives.
- (3) litter and other nuisances from a concentration of late-night takeaways.

Where an application for alcohol sales or late night refreshment has been received within an SLA, this policy states that the licensing authority will consider making representations and will strictly apply policies LP6, LP7, LP8 and LP9 in relation to those premises.

Where additional representations have been made by other parties, our strict starting point in these areas will be to consider whether conditions will be

appropriate to address those concerns or whether a refusal is justified on the basis that the licensing objectives would be undermined.

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 mitigate risks to public safety where relevant representations have been received. This policy highlights particular measures that the committee may address through conditions, while also stating that conditions should not seek to duplicate existing health and safety requirements.

Policy LP8 – 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 approaches expected from applicants to promote this licensing objective, and what factors the committee will take into account when considering concerns under this 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 its 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. The applicant's original operating schedule at appendix 1 has now been modified substantially by reducing the hours and in particular in agreeing conditions with the Police.

9.4 **Conditions agreed with responsible authorities**

9.5 The following conditions have been agreed between the applicant and the Police which would be attached to any premise 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.
3. All faults with the CCTV system shall be repaired as soon as possible and in any case within three working days after which time, if the system is still inoperative no licensable activities shall take place without the agreement of the Watford Police Licensing Unit and the licensing authority until the fault is rectified.
4. The premises licence holder shall ensure that all tills in operation at the premises automatically provide age-related prompts to staff to check the age of the buyer when alcoholic products are passed through the till, or entered onto the till, for sale.
5. 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, and monitor staff to ensure their training is put into practice. Records of such

training shall be maintained at the premises and made available to a Police Officer or an authorised officer of the Licensing Authority upon request.

6. 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 the premises, or by the premises to police
 - (b) any complaints received
 - (c) any incidents of disorder
 - (d) any faults or failures in the CCTV system
 - (e) Any refusal of the sale of alcohol
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 is open.
8. All sales of alcohol shall be in sealed containers and customers shall not be permitted to drink alcohol on or outside the premises.
9. Notices shall be prominently displayed at all exits requesting staff & delivery drivers to respect the needs of local residents and leave the area quietly.
10. The Premises Licence holder shall ensure that no members of the public shall be admitted on the premises after 23:00hrs.
11. No super-strength beer, lager, or ciders of 6% ABV (alcohol by volume) or above shall be sold at the premises.
12. No single cans or bottles of beer, lager or cider shall be sold at the premises.
13. No sales of miniature or quarter bottles (25cl or less) of spirits of any kind shall be permitted.
14. There shall be no self-service of spirits on the premises.
15. 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.
16. The premises licence holder or designated premises supervisor shall ensure that all online orders for alcohol are dispatched to bona fide addresses only.
17. The premises licence holder shall advertise their age verification policy on their website 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. Delivery staff shall be trained in age verification process. No alcohol deliveries shall be made by post.

18. 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 alcohol is purchased or delivered.

19. The premises shall operate a 'No ID, no sale' policy at all times for persons who appear to be under 25.

9.6 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.

9.7 Conditions proposed by objectors

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

9.9 **Conditions consistent with operating schedule**

Officers do not propose any additional conditions which are consistent with the applicant's operating schedule.

9.10 **Pool of Model Conditions**

9.11 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.

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

9.13 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.

9.14 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

This application falls within the Queens Road Sensitive Licensing Area under Policy LP4. This policy states that the strict starting point for determining this application, and considering any representations against the application, will be to consider if conditions will be appropriate to address the concerns raised against the application, or whether a refusal is justified on the basis that the licensing objectives will be undermined.

- 10.2 Members are able to depart from policy in circumstances where there are justifiable reasons for doing so, and after considering the individual merits of the application before them.
- 10.3 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.
- 10.4 Residents are concerned about the proposed hours of operation and that if the off sale of alcohol is granted this licensable activity would further increase crime and disorder, footfall, noise, and nuisance created by delivery vehicles parking and then leaving 24 hours a day. Representations also highlight concerns that these delivery drivers would contribute to public nuisance. It has been highlighted this shop would simply attract unfavourable and anti-social people and behaviour to the area. However, it is not stated if these disturbances can be linked to the premises which is the subject of this application. Members must only refuse this application or impose conditions if they are satisfied that there is a direct link between the licensable activities of the premises in question or potential undermining of the licensing objectives. Officers can advise that the original application was for 24 hours and the licensable hours have been amended to 08:00 -23:00 hours Monday to Sunday.
- 10.5 Members are reminded that they must consider this application on its own merits, based upon the submissions put before them. Where representations have been received, applicants have the right to an open and fair hearing, where they can put forward an argument as to why their application should be granted. Likewise, this same right of a fair and open hearing is also extended to parties making representations against this application.
- 10.6 The overarching theme from residents is that if the licence is granted there may be an increase in anti-social behaviour and the effect this could have on the local residents. Members are reminded of paragraph 2.21 of the Statutory Guidance, which states that “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.”

- 10.7 If a customer of any premises decides to engage in anti-social behaviour either while, or as a result of, consuming alcohol, but that alcohol was purchased legally, then it is the customer that is liable for their behaviour, and not the licensed premises. If Members are satisfied that there are additional steps that the premises could take in order to assist dispersal from the immediate area, and that such steps are appropriate for the promotion of the licensing objectives, then these steps may be confirmed by being attached to the licence as conditions.
- 10.8 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.
- 10.9 A number of representations refer to matters that would not be relevant to the licensing regime including traffic and parking. The application for a premises licence must be determined on its own merits and solely in the respect of the licensable activities being proposed and the direct impact on those activities. For the committee to accept this as a valid ground for objections, it must be satisfied that traffic and parking is relevant to one of the licensing objectives and if so, is likely to affect the licensing objectives. Members should note that there is in existence other primary legislation that can deal with any concerns relating to parking. Queens road is covered by Controlled Parking Zone B, with permit holders only being allowed to park in marked bays every day between 08:00 and 22:00, including Bank Holidays, and double yellow lines immediately outside of the property. Thus in order to avoid statutory duplication it may not be appropriate for the committee to attach conditions relating to parking.
- 10.10 The representations mention concerns over children and have highlighted that there is a nursery and primary school not far from the shop. Paragraph 2.2 of the Guidance covers protection of children from harm objective and refers to harm when
- 10.11 on the premises and from the activities carried out from the premises. To prevent underage sales the applicant has agreed to advertise their age verification policy on
- 10.12 the website and implement challenge 25. The premises has no previous history and no specific representations have been made on these grounds from any responsible authorities including the Safeguarding Partnership. Paragraph 2.25 of the guidance does mention the applicant should consider the effects of advertising on their premises and this may be the area that the Committee may wish to explore.

Representation 3U has submitted a petition containing thirty-one signatures. The signatories have not submitted any individual representations. Members need to be very wary of what weight they attach to it given the fact that it is a petition, we do not know who these signatories are and the exact views of the signatories.

- 10.13 Furthermore the petition does not state what the concerns are and the potential impact the premises would have on the licensing objectives.
- 10.14 Objections highlight that there are already convenience stores on Queens Road that sell alcohol which are in close proximity and therefore there is absolutely no need for another store selling alcohol as their locality would be adversely affected. Members will be aware that the issue of need is specifically excluded from being a valid consideration under paragraph 14.19 of the statutory guidance which states:
- 10.15 ‘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’
- 10.16

10.17 For the avoidance of doubt, there is no cumulative impact policy in force for this area of Queens Road.

Members are reminded that both applicants and objectors have the right to expand on 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.

10.18 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing thus provides an opportunity for the person or body making the representation to amplify and clarify it.

As is standard practice, all parties were offered mediation in respect of this application but no requests have been received and therefore not pursued.

10.19 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 to both the submissions of the applicant and to the submissions of the objectors, when considering this application.

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.

In determining this application with a view to promoting the licensing objectives in the overall interests of the local community, 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.

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 against the application

Appendix 4 – Representations in support

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 (April 2021 – November 2023)

Watford Borough Council Pool of Model Conditions (January 2018)