

## PART A

**Report to:** Licensing Sub Committee  
**Date of meeting:** 6 February 2024  
**Report of:** Licensing Officer (PS)  
**Title:** Application for a new Premises Licence  
Woody Express, 103-105 The Parade, Watford WD17 1LU

### 1.0 Summary

1.1 An application for a new premises licence has been received from Woody's Express Limited to licence the premises at 103-105 The Parade, Watford WD17 1LU. 103 The Parade currently has an existing premises licence for the provision of late-night refreshment but 105 The Parade is not included in the licence hence this application is for a new premises licence application to cover both premises to operate as a single hot food restaurant and takeaway.

1.2 One responsible authority and one resident have submitted representations.

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:

- 1) The prevention of crime and disorder
- 2) Public safety
- 3) The prevention of public nuisance
- 4) The protection of children from harm

1.4 During the consultation period representations against this application have been received from Environmental Health in their role as responsible authority. They have expressed concerns with regards to public nuisance.

### 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	Determination of application given with detailed	Treat	2

	potential of costs being awarded against council if decision is not justified or legal	reasons and after considering 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	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 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, Associate Director Housing and Wellbeing**

## 4.0 **Application**

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

4.2 Application for a new premises licence for 103-105 The Parade, attached at appendix 1.

4.3 Members are advised that the application was amended during the consultation period following discussions with the Police. It is therefore important to note that the hours requested by this application now differ from those originally included on the application form.

### 4.4 **Description of premises**

4.5 The premises currently operates as a restaurant and takeaway, selling food for consumption on the premises and for customers to take away.

4.6 Under Policy LP1 the use would be defined as a 'take-away, in that the premises is licensed only for the provision of late-night refreshment. The premises is situated on The Parade within the town centre. Under Policy LP2, the premises would be defined as being located within the town centre (also refer to Policy LP3).

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

### 4.8 **Licensable activities**

4.9 The applicant is requesting permission to provide late night refreshment with a delivery service.

5.1 The following information is known about this premises:

### 5.2 **Current licences held.**

5.3 The applicant, Woody's Express Ltd, does not currently hold any licences for this premises.

5.4 There is an existing premises licence in place for part of this premises, held by another licence holder as an individual. For transparency, this individual is a director of Woody's Express Ltd. The application states that 103 The Parade has an existing licence, which officers can confirm, but that the units of 103 and 105 The Parade have been combined into one premises and a new licence is required to cover the extension of the business. For the purposes of determining this application, which is for different hours than the existing licence and in the name of a different licence holder, this application should be treated in isolation from the existing licence. Members are reminded that they are to consider the application before them today,

which is an application for a new licence.

**5.5 Closing date for representations**

5.6 12 January 2024

**5.7 Public notice published in newspaper**

5.8 15 December 2023

**5.9 Visits and Enforcement action**

5.10 The committee have requested that we note the history of visits and enforcement actions. There is no recent history of visits or enforcement action against this premises, although it must be noted that this is an application for a new licence and the applicant, Woody's Express Ltd, do not currently hold any premises licences for this premises or anywhere else within the Borough.

**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 and licensable activities hours have been amended since the application was originally submitted. These amendments and any conditions agreed with the responsible authorities are detailed later in the report.

**7.0 Representations**

**7.1 Responsible Authorities**

7.2 Environmental Health, as a responsible authority, have submitted a representation attached at appendix 3.

7.3 The Police secured the agreement of the applicant to amend the application in reducing the proposed hours and agreeing to a number of conditions. These conditions are covered later in the report. As a result, the Police did not submit formal representations.

**Other Persons**

Representations have been received from one resident, attached at appendix 4, and their details are listed below:

Name	Address	Representative Body (Yes/No)	Relevance to which licensing objective(s)
Terry White	Faircross House, The Parade	No	Public nuisance

7.4 The resident has been made aware of the conditions agreed with the Police and the change in the proposed hours but has advised that they still wish their objection to stand.

## 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.
- The Licensing Act 2003 (Hearing 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 (August 2023) apply to this application:

### **Paragraph 2.26:**

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: 9.31 - 9.41:**

These paragraphs explain that hearing should be focussed on the steps considered appropriate to the promotion of 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 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**

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

**8.5 Policy LP1 – Premises Definitions**

Under this policy, the premises are best defined as a takeaway.

**8.6 Policy LP2 – Location and Operation of Premises**

This policy sets out the approach to licensing premises when relevant representations are received, notwithstanding that each application is considered on its own merits. This premises is situated within the Town Centre and within the cumulative impact zone (as defined in Policy LP3 which does cover The Parade and the High Street) and this policy states that takeaways 'will generally be allowed late-night refreshment sales to 1am only (other than for special occasions)'.

**8.7 Policy LP6 – Prevention of Crime and Disorder**

Under this policy the Sub-Committee will consider any necessary measures to deal with the potential for crime and disorder where relevant representations have been received.

**8.8 Policy LP8 – Prevention of Public Nuisance**

Under this policy the Sub-Committee will consider any appropriate measures to deal with the potential for public nuisance and/or anti-social behaviour where relevant representations have been received.

**8.9 Policy LP11 – Representations About Applications**

This policy recommends the type of information that should be included in a representation. It also explains how representations will be dealt with.

8.10 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.

8.11 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 can be found in their application attached at appendix 1.

## 9.5 **Conditions agreed with the Police**

9.6 During the consultation period the applicant agreed the following conditions with the Police, which would be attached to the premises licence should this licence be granted.

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. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
5. No alcohol to be sold at this premises.
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 or by the premises to the Police
  - b) Any 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
7. A minimum of (1) one SIA licensed door supervisor shall be on duty at the entrance of the premises on any day from 23:00 hours until close.
8. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
9. There shall be a sign notifying customers of last orders for late night refreshments 15 minutes before closing time.
10. All assaults resulting in physical injury to a person must be reported immediately to the Police.
11. Children unaccompanied by an adult over 18 years of age shall not be permitted between 22:00 and close on any day.

9.7 **Conditions consistent with the operating schedule**

Officers have not identified any additional conditions which are consistent with the operating schedule submitted with this variation. It is noted that some of the conditions agreed with the Police are similar to the steps volunteered within the operating schedule.

9.9 **Conditions proposed by other objectors**

9.10 Environmental health has proposed the following conditions to the applicant:

1. Notices shall be prominently displayed at all doors from which delivery drivers collect orders requesting them to enter and leave their vehicles (or get on and get off their bikes) quietly and considerately, not leave engines running and with due consideration to neighbours.
2. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
3. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
4. All windows and doors shall be closed and remain closed from 22:00 until the business reopens the following day, except for the immediate access or egress of customers, staff, and delivery drivers.
5. All outside tables and chairs shall be removed from the outside area or rendered unusable by 22:00 each day.
6. No rubbish, including bottles, shall be disposed of in outside receptable or outside areas between 22:00 and 08:00 the following day.
7. All litter, including food debris, which is associated with the use of the premises shall be cleared from within a 15-metre radius of the shop front at the close of business every day. All such rubbish is to be disposed of as trade waste.
8. All customers who order food to take away after 23.00 shall be asked if they require a bag and serviettes for their food and shall only be provided if required by the customer.

9.11 **Pool of Model Conditions**

9.12 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 for 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, which have not been withdrawn, the licensing sub-committee acting on behalf of the licensing authority must decide on this application.

10.2 Officers can advise that mediation was offered and discussions are ongoing between the Environmental Health and applicant to control the risk of public nuisance and Members are encouraged to enquire as to the state of these discussions. It is noted that this application does concern an extension to hours into the night/early

10.3 morning. Paragraph 2.24 of the Statutory Guidance states:

“Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for the people being disturbed by unreasonably loud music is at night into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11pm and 8am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.”

10.4 The Sub-Committee will need to consider the hours of operation, the effectiveness of the operating schedule submitted by the applicant (as amended during consultation), the representations received, the location of the premises, the likely impact of any extension of hours and activities, the right the applicant has to operate a business and balancing the rights of residents the quiet enjoyment and privacy of family life.

10.5 These and other relevant issues may be explored at the hearing in so far as it reflects the proposed impact of the application on the four licensing objectives. Although the application does fall within the town centre, and the premises is situated on The Parade, it must be noted that the Cumulative Impact Policy (Policy LP3) does not apply to the application because the application is not requesting the supply of alcohol as a licensable activity.

10.6 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.

- 10.7 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 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.
- 10.10 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 to them.
  - (c) reject the whole or part of the application.
- 10.11 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 – EH Representations

Appendix 4 – Other Person 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 August 2023)

Licensing Act (Hearings) Regulations 2005

Watford Borough Council Licensing Policy (November 2023– November 2028)

Watford Borough Council Pool of Model Conditions (January 2018)