

PART A

Report to: Licensing Sub-Committee
Date of meeting: 25 March 2014
Report of: Head of Community and Customer Services
Title: Application for Variation of Premises Licence:
D & S Food and Wine, 2 Market Street, Watford WD18 0PD
14/00178/LAPRE

1.0 SUMMARY

- 1.1 An application for the variation of an existing Premises Licence has been received in respect of D & S Food and Wine, 2 Market Street, Watford. Representations about part of the application have been received from a councillor, the police and the licensing authority.

2.0 RECOMMENDATIONS

- 2.1 That the Licensing Sub-Committee determines whether to grant the application (amended as appropriate for the promotion of the licensing objectives) as set out in the report.

Contact Officer:

For further information on this report please contact:

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Report approved by: Alan Gough, Head of Community and Customer Services

3.0 APPLICATION

3.1 Type of authorisation applied for
Variation to Premises Licence by Augustin Arul.

3.2 Description of premises (from the application form)
The premises are a small convenience store on the edge of town on Market Street.

3.3 A location plan of the premises is attached as appendix 1.

A layout plan of the premises is attached as appendix 2.

3.4 Licensable activities

Licensable activity	Permitted now	Subject to variation
Plays		
Films		
Indoor sporting events		
Boxing or wrestling entertainment		
Live music		
Recorded music		
Performances of dance		
Anything of a similar description to live or recorded music or dance		
Provision of late night refreshment		
Sale by retail of alcohol for consumption on the premises		
Sale by retail of alcohol for consumption off the premises	✓	✓

3.5 Hours

The proposed hours for licensable activities and opening are detailed in the following tables:

	Existing opening hours	Existing hours for alcohol sales	Proposed opening hours	Proposed hours for alcohol sales
Monday to Sunday	07:00 to 23:00	10:00 to 20:00	07:00 to 23:00	10:00 to 22:00

4.0 **BACKGROUND INFORMATION**

4.1 The following background information is known about these premises:

4.2 Designated premises supervisor

The designated premises supervisor is Augustin Arul, who has also been the premises licence holder since it was granted.

4.3 Current licences held

Premises licence 13/00414/LAPRE granted on 14 May 2013.

The current licence is attached as appendix 3.

4.4 Closing date for representations

6 March 2014

4.5 Public notice published in newspaper

As required under the Licensing Act 2003, this application has been advertised in the local newspaper and also outside the premises.

4.6 Visits and Enforcement action

No enforcement action has been taken in relation to the premises.

5.0 **PROMOTION OF LICENSING OBJECTIVES**

5.1 The application indicates that the applicant does not feel there is a need to take any additional steps in order to promote the licensing objectives (refer to appendix 3 for existing conditions).

5.2 In addition to extending the alcohol sale hours, the applicant is applying to remove the conditions prohibiting the sale of:

- (1) single cans or bottles of beer, lagers or cider (annex 2, condition 1)
- (2) quarter bottles and miniature bottles of spirits (annex 2, condition 2).

6.0 **RESPONSIBLE AUTHORITIES**

6.1 Police

The police have made representations about the removal of the two conditions due to the relationship of the location of the premises to the town centre; the likelihood of street drinkers obtaining small bottles of alcohol; and intelligence-based concerns about the prevention of sales to children (see appendix 4).

6.2 Licensing Authority

The licensing authority has made representations concerning the level of alcohol-related anti-social behaviour in and around this part of the town centre prior to controls limiting the type of alcohol that could be sold were introduced (see appendix 4).

6.3 Environmental Health
No representations submitted.

6.4 Trading Standards
No representations submitted.

6.5 Local Planning Authority
No representations submitted.

6.6 Fire and Rescue Service
No representations submitted.

6.7 Child protection
No representations submitted.

7.0 INTERESTED PARTIES

7.1 The single representation is attached at appendix 4 and has been made available to the applicant.

7.2

Reference letter	Name	Address	Representative Body (Yes/No)	Relevance to which licensing objective
A	Councillor Helen Lynch	c/o Town Hall, Watford	No	Crime and disorder

7.3 None of the representations object to the hours for the sale of alcohol being increased. All of the representations object to removal of the conditions proposed by the applicant. Removing those conditions will make the premises more attractive to street drinkers in a street that has historically suffered from alcohol-related anti-social behaviour and vandalism.

8.0 POLICY CONSIDERATIONS

8.1 The following provisions of the Licensing Act 2003 apply to this application:

- Section 34 and 35 (Variation of licences):
Section 34 details how a licence holder can make an application.
Section 35 details how determinations will be made when an application is made under section 34.

8.2 The following provisions of the Secretary of State's guidance apply to this application:

- Paragraphs 8.33 - 8.41:
These paragraphs explain how steps should be taken to promote the licensing objectives. It is for the Sub-Committee to decide in light of this guidance whether the measures offered by the applicant are adequate and likely to promote the licensing objectives. It is equally

important to use the same measure when looking at any steps requested by a party making representation against an application.

- Paragraph 10.12:
This paragraph refers to there being no general presumption in favour of lengthening licensing hours and how a committee may act when they receive objections to an application.
- Chapter 10:
This chapter looks at best practice in relation to conditions that may be attached to a premises licence by the Sub-Committee, should they believe that these are necessary to promote the licensing objectives. Any additional conditions requested by the responsible authorities should be considered with reference to this chapter.

8.3 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.

Under this policy the premises are defined as being in the town centre.
- Policy LP6 (Prevention of Public Nuisance):
Under this policy the committee will particularly consider the likelihood of any anti-social behaviour, violence, public order or policing problem if the licence is granted.
- 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 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 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 RELEVANT TRADE OR OTHER GUIDANCE

9.1 None

10.0 CONDITIONS

10.1 The premises licence already contains a large number of conditions drawn from the applicant's initial operating schedule. There are no further conditions that would alleviate the concerns raised in the representations, as those are concerned about the removal of two licence conditions.

11.0 OFFICERS' OBSERVATIONS

11.1 The premises are located within the town centre policy area. Market Street has historically had a high level of alcohol-related anti-social behaviour, largely predicated around on-street drinkers but also under-age sales. Officers have previously worked with off-licences in the street on a formal and informal basis (including a review) to change licence conditions and management practices to reduce such incidences to nearly zero.

11.2 There is concern by the police, licensing authority and a ward councillor that relaxing the conditions in question could encourage a return to alcohol-linked anti-social behaviour. This is supported by effectively an untested third-hand police intelligence report of cigarettes (which are an age-restricted product the same as alcohol) being sold to children outside of the shop.

11.3 Whilst there is no objection to the premises extending the time for alcohol sales, its proximity to the night-time economy could lead to more people attempting to "smuggle" in small bottles of alcohol purchased elsewhere into town centre pubs and clubs. This makes it difficult for them and their door supervisors to prevent drunkenness in and around their own premises if customers bring in their own alcohol.

11.4 The Sub-Committee are reminded that they have a duty to "have regard" to the Licensing policy but are not bound by it. However, should Members wish to depart from the policy then detailed reasons for this must be given as part of any decision.

Appendices

Appendix 1 – map of the premises' location

Appendix 2 – plan of the premises

Appendix 3 – copy of current Premises Licence

Appendix 4 – representations from interested parties

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 (June 2013)

Licensing Act (Hearings) Regulations 2005

Watford Borough Council Licensing Policy (November 2013)

Watford Borough Council Pool of Model Conditions (March 2013)

File Reference

D & S Wines