

PART A

Report to: Licensing Sub-Committee
Date of meeting: 28 April 2014
Report of: Head of Community and Customer Services
Title: Application for a Variation of Premises Licence:
The Flamingo (Watford) Ltd, 135 The Parade, Watford
14/00274/LAPRE

1.0 SUMMARY

1.1 An application has been made by The Flamingo (Watford) Ltd for a variation to the premises licence for Flamingo, 135 The Parade Watford. Three representations have been received from Interested parties.

2.0 RECOMMENDATIONS

- 2.1 That the Licensing Sub-Committee determines whether to grant the variation of the premises licence.
- 2.2 That the Licensing Sub-Committee determines whether any other appropriate conditions should be added to the licence in light of the representations that have been made.

Contact Officer:

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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 a premises licence

3.2 Description of premises

The premises are situated in the 'town centre' as defined in Policy LP3. The premises falls within the description of bar/other entertainment venue given in policy LP1.

3.3 A map of the location of the premises is attached at appendix 1.
A plan of the premises showing the proposed licensed area is attached at appendix 2. The current licensed area is shown on the plan attached to the current premises licence at appendix 3.

3.4 Licensable activities

Licensable activity	Permitted now
Plays	
Films	
Indoor sports 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 Licensable hours

The currently permitted and proposed hours for licensable activities and premises opening are detailed in the table below.

	Existing hours for Live Music	Proposed hours for Live Music	Existing hours for Recorded Music	Proposed hours for Recorded Music
Monday	12:00-00:00	No change	12:00-00:30	No change
Tuesday	12:00-00:00	No change	12:00-00:30	No change
Wednesday	12:00-00:00	No change	12:00-00:30	No change
Thursday	12:00-00:00	No change	12:00-01:00	12:00-01:30
Friday	12:00-00:00	No change	12:00-01:00	12:00-02:30
Saturday	12:00-00:00	No change	12:00-01:00	12:00-02:30
Sunday	12:00-22:30	No change	12:00-22:30	12:00-23:00
New Year's Eve	Existing hours dependent the day	12:00-02:00	Existing hours dependent on the day	12:00-04:30

	Existing hours for Performance of dance	Proposed hours for Performance of dance	Existing hours for on premises supply of alcohol	Proposed hours for on premises supply of alcohol
Monday	12:00-00:30	No change	12:00-00:30	12:00-00:00
Tuesday	12:00-00:30	No change	12:00-00:30	12:00-00:00
Wednesday	12:00-00:30	No change	12:00-00:30	12:00-00:00
Thursday	12:00-01:00	12:00-01:30	12:00-01:00	No change
Friday	12:00-01:00	12:00-02:30	12:00-01:00	12:00-02:00
Saturday	12:00-01:00	12:00-02:30	12:00-01:00	12:00-02:00
Sunday	12:00-22:30	12:00-23:00	12:00-22:30	No change
New Year's Eve	Existing hours dependent on the day	12:00-04:30	Existing hours dependent on the day	12:00-04:00

	Existing Opening times of premises	Proposed Opening times of premises
Monday	12:00-00:30	08:00-00:30
Tuesday	12:00-00:30	08:00-00:30
Wednesday	12:00-00:30	08:00-00:30
Thursday	12:00-01:30	08:00-01:30
Friday	12:00-01:30	08:00-02:30

Saturday	12:00-01:30	08:00-02:30
Sunday	12:00-22:30	08:00-23:00
New Year's Eve	Existing hours dependent on the day	08:00-04:30

- 3.6 There was a discrepancy on the original application. Members should note that closing time for the premises is 20 minutes before the end of recorded music and dance performances on New Year's Eve. This has been brought to the attention of the applicant who has acknowledged that it was an error when completing the application. The hours were amended. The new hours are outlined above.

The applicant has confirmed that the premises will close and all activities will end by 04.30 hours on New Year's Eve.

- 3.7 An extension to all activities and opening times of one hour is requested for the start of British summer time when the clocks go forward and to compensate for their lost trading hour.

4.0 **BACKGROUND INFORMATION**

- 4.1 The following background information is known about these premises:

4.2 Designated premises supervisor
Mr Denis Cook

4.3 Current licences held
13/01133/LAPRMV

4.4 Closing date for representations
3 April 2014

4.5 Public notice published in newspaper
14 March 2014

4.6 Visits and Enforcement action
No formal inspections or visits

5.0 **PROMOTION OF LICENSING OBJECTIVES**

5.1 General

The operating schedule that allows the applicant to describe any additional steps they intend to take to promote the four licensing objectives as a result of the proposed variation has been reproduced at appendix 4.

6.0 REPRESENTATIONS FROM RESPONSIBLE AUTHORITIES

6.1 Police
None

6.2 Fire and Rescue Service
None

6.3 Environmental Health
After discussions with the applicant Environmental Health withdrew their representations when the applicant agreed to the inclusion of a number of additional conditions on their operating schedule. (Appendix 8)

6.4 Planning
None

6.5 Trading Standards
None

6.6 Child Protection
None

6.7 Interested Parties

6.8

Reference letter	Name	Address	Representative Body (Yes or No)	Relevance to which licensing objective
A	Peter Young (Central Town Residents' Association & Neighbourhood Watch)	31 St John's Road, Watford	Yes	Public Nuisance
B	Terry White	Flat 1A, Faircross House	No	Public Nuisance
C	Martin White	143 Bar The Parade Watford	No	Public Nuisance, Crime and Disorder, Public Safety

7.0 The recurring theme throughout the representations is regarding public nuisance and disturbance and a concern that later opening will have a negative impact on the interested parties.

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): Sections 17 and 18
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 Statutory Guidance

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

- Paragraphs 8.33 - 8.45:
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 representations 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 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 "Other entertainment venue".
- 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.
- Policy LP3 (Creating a family friendly Town Centre)

This is a special policy which applies to this part of the town centre, which is intended to be strictly applied.

Paragraph 2 of LP3 states “When we have received relevant representations for a restaurant, café-bar, other entertainment venue, café or premises providing other non alcohol licensable activities (as defined in policy LP1) are received our starting point will be to grant the application subject to conditions to address those representations. to an application for a pub, night-club or bar (as defined in LP1) in this part of the town centre, our starting point will be to refuse the application”.

Paragraph 6 of LP1 states “Where relevant representations have been received to sell alcohol after 10pm and exceptions can be shown, we will consider whether premises shall be required to install a closed-circuit television system that meets the reasonable requirements of Hertfordshire Constabulary and to have use of a Pubwatch radio”.

(Exceptions to LP3)

1. Exceptions will not be made on the grounds that:
 - (1) the building design is of a high standard; we would expect that all applicants will want to ensure the highest design standards possible;
 - (2) that the applicant is of good character. It is a legal requirement that premises selling alcohol must be under the management of a designated premises supervisor, who must themselves hold a personal licence to sell alcohol;
 - (3) the premises are small. Even small premises can contribute to crime, disorder and nuisance.
 2. We will consider whether to grant an application, even when relevant representations have been received, if:
 - (1) the application contributes to the family-friendly development of the town centre; or
 - (2) to effect a real reduction in capacity of alcohol sales; or
 - (3) to replace vertical drinking establishment with seated consumption and waiter service.
 3. In any case where an applicant wishes an exception to be considered, the responsibility is with them to show why it should be considered and not on our licensing committee to show why an exception should not be made.
- Policy LP6 (Prevention of Crime and Disorder):

Although the applicant has not provided any evidence that a crime prevention audit has been carried out at the premises as suggested by this policy, the applicant’s operating schedule was submitted after consultation with the police who have not made any representations. This policy details the factors that will be considered when a relevant representation is received based on this licensing objective.

- 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 anti social 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.

8.4 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**

None

10.0 **CONDITIONS**

10.1 Members will be aware that an operating schedule forms part of the licensing application process. This document outlines what activities are proposed, the opening hours, how the activities will be managed particularly in respect of the licensing objectives.

The most critical part of the operating schedule is the steps taken by the applicant to promote the four licensing objectives. Applicants are always recommended to take careful consideration as to what is entered in this section as whatever is proposed will be translated as conditions on the licence.

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 environment.

10.2 Consistent with operating schedule

The applicant has provided a detailed operating schedule (appendix 4) which, if the application is granted, would be translated into licence conditions. In this particular application, the application also seeks to remove and amend conditions attached to the current licence.

Whilst there is no objection to the inclusion of the smoking area in the

licensed area, the Sub-Committee should be aware that the applicant has agreed to the three conditions proposed by Environmental Health. These now form part of the operating schedule and are listed on the draft licence at appendix 6.

With regards to the use of the smoking area, the applicant will still have the condition to have a maximum of 50 people there but has applied to remove condition 31: "No customers shall be permitted to take food or drink into the smoking area". If you consider this request could have an impact on the licensing objectives, the Licensing Sub Committee can either propose additional conditions or place additional restrictions.

During a meeting at the premises with officers, the applicant advised that there will be one doorman who would manage the smoking area at the rear of the premises. However, this is not reflected in the operating schedule. The Licensing Sub-Committee may attach a condition if they think it is appropriate for the management of this area.

The Sub-Committee may wish to note that no suggestions or comments have been put forward regarding amendment to Condition 1(2) to be replaced by: "All ages up to 20:00 hours and over 21s only after 20:00 hours.

11.0 OFFICERS' OBSERVATIONS

11.1 All the representations make reference to potential for public nuisance given the number of residential premises in the vicinity and the increase in the operating hours.

11.2 Representation A from the Central Town Residents' Association suggests that residents have trouble with the late night clientele passing through residential area roads and have had an effect on their quality of life.

The Statutory Guidance paragraph 2.24 makes clear that premises holders cannot be held responsible for the conduct of their customers once they leave the premises. It would be nearly impossible to differentiate between the noise from clients of Flamingo and other premises in the area.

11.3 Regarding the representation from Mr T White (appendix 5B), the key question for the Sub Committee to consider is whether Mr T White is referring to the past premises licence holder and if any of the evidence is relevant to the current premises licence holder how much weight should be attached to it.

11.4 Mr M White's representation (appendix 5C) has made objections on the basis of three licensing objectives. The figures provided by him go back to 2011 and not the most current figures. Furthermore, he has made reference to the Council's LP11, which is engaged only when a representation is considered by a Committee during a hearing and is not in itself a ground for submitting a representation.

Members may wish to seek clarification from the representative as to any evidence to support these objections.

- 11.5 The applicant has been made aware of the representations and he has indicated his willingness to discuss possible changes to the proposed operating schedule.
- 11.6 Officers were advised that the applicant entered into mediation and these discussions did not progress.
- 11.7 The applicant has submitted evidence from the Police, to indicate that the premises is well-run (appendix 7)
- 11.8 A draft licence based on the details contained in the application is attached at appendix 6. It is within the Sub-Committee's discretion whether to refuse the application if it does not promote the licensing objectives, or whether to impose or amend licence conditions to meet concerns expressed in representations.

Appendices

- Appendix 1 – Map of the premises' location
- Appendix 2 – Plan showing proposed area
- Appendix 3 – Current licensed area
- Appendix 4 – Operating schedule
- Appendix 5 – Interested Party Representations
- Appendix 6 – Draft Licence
- Appendix 7 – Applicant's Supporting Info
- Appendix 8 - EHO Representation

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

Guidance issued under section 182 of the Licensing Act 2003 – June 2013

Licensing Act (Hearings) Regulations 2005

Watford Borough Council Licensing Policy November 2013 – 2018

File Reference - Flamingo