

PART A

Report to: Licensing Sub-Committee
Date of meeting: 28 July 2014
Report of: Head of Community and Customer Services
Title: Variation of Premises Licence Application:
The Load of Hay Ltd, 207 Pinner Road, Watford Heath, Watford
14/00686/LAPRE

1.0 **SUMMARY**

1.1 An application for a variation to an existing premises licence has been received from Ms Julie Wattam for The Load of Hay Ltd, 207 Pinner Road, Watford.

The application is to extend the licensed area to include a bar in the rear beer garden for the supply of alcohol only as part of the licensed premises.

Representations have been received from two interested parties.

2.0 **RECOMMENDATIONS**

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

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 of premises licence.

3.2 Description of premises from the application form

The premises is a Public House in a predominantly community setting with a beer garden. It is located in the well established Watford Heath conservation area. The premises currently has a premises licence that permits the sale of alcohol for consumption both on and off the premises, as well as provision of live and recorded music and late night refreshment.

3.3 The application is to extend the licensed area to include the rear garden bar to form part of the licensed premises.

3.4 The applicant has proposed that the garden bar would only be operational each year from 1 April to 30 November for the supply of alcohol and no other licensable activities.

3.5 A map of the location of the premises is attached at appendix 1.
A plan of the premises is attached at appendix 2.

3.6 Licensable activities

No additional licensable activities have been requested.

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 facilities for making music	
Provision of facilities for dancing	
Provision of facilities of a similar description to making music or dancing	
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	√

3.7 Licensable hours

The details of the application to vary the premises are as follows:

Existing Premises Licence	Variation Application – Garden Bar area only operational hours each year from 1 April to 30 November to be as follows:
<u>On and Off Alcohol sales</u> Monday to Thursday 11:00 – 23:00 Friday and Saturday 11:00 – 23:00 Sunday 11:00 – 22:30	<u>On and Off Alcohol sales</u> Friday and Saturday 14:00 – 23:00 Sunday 14:00 – 21:00 Bank Holidays 14:00 – 21:00
<u>Performance of Live Music</u> Saturday 19:00 – 23:30	<u>Performance of Live Music</u> Not applicable
<u>Performance of Recorded Music</u> Monday to Thursday 11:00 – 23:00 Friday and Saturday 11:00 – 00:00 Sunday 11:00 – 22:30	<u>Performance of Recorded Music</u> Not applicable
<u>Late Night Refreshment</u> Friday and Saturday 23:00 – 00:00	<u>Late Night Refreshment</u> Not applicable
<u>Opening hours of the premises</u> Monday to Thursday 11:00 – 23:30 Friday and Saturday 11:00 – 00:00 Sunday 11:00 – 23:00	<u>Opening hours of the Garden Bar</u> Friday and Saturdays 14:00 – 23:00 Sunday 14:00 – 21:00 Bank Holidays 14:00 – 21:00

A copy of the current licence is attached at appendix 3.

4.0 **BACKGROUND INFORMATION**

4.1 The following background information is known about these premises:

The premises were licensed for alcohol sales for many years prior to November 2005 when its justices' licences was converted to a premises licence under the Licensing Act 2003.

An application for Transfer of Premises licence and change of designated premises supervisor was submitted in November 2013.

4.2 Designated premises supervisor
Julie Wattam since November 2013

4.3 Current licences held
The premises has been licensed since 2005 and the current licence (13/01323/LAPRE) has been in place since November 2013.

4.4 Closing date for representations
12 July 2014

4.5 Public notice published in newspaper
20 June 2014

4.6 Visits and Enforcement action
None.

5.0 **PROMOTION OF LICENSING OBJECTIVES**

The licensing application indicates that the applicant does not feel there is a need to take any additional steps in order to promote the licensing objectives.

5.1 The existing licence and conditions which apply to this premises are attached at appendix 3

6.0 **RESPONSIBLE AUTHORITIES**

No representations have been received from any responsible authorities.

7.0 **INTERESTED PARTIES**

7.1 Two relevant representations have been received from interested parties. The relevant representations are attached at appendix 4.

Reference letter	Name	Address	Representative Body (Yes/No)	Relevance to which licensing objective
A	Ms Stephanie Marshall	33 Watford Heath	No	Public nuisance
B	Lionel and Wendy Trussell	34 Watford Heath	No	Public nuisance

7.2 The recurring theme from both the representations is that the extension of a rear garden bar will result in an increase in noise and public nuisance and have a negative impact on the neighbouring residents.

7.3 The representations highlight that the noise emanating from this establishment particularly during the evening would cause unacceptable disruption and nuisance to residents who live close to the premises.

7.4 Residents fear that the use of this garden bar for a limited period will encourage more congregation in the rear area rather than simply using the traditional internal bar area. It will also have an impact on the conservation status and their lives.

8.0 POLICY CONSIDERATIONS

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

- Sections 17 and 18 (Application for a 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.
- Section 19 (Mandatory conditions):
Section 19 details the mandatory conditions that would apply if the Sub-Committee was minded to grant a licence authorising the supply of alcohol.
- 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.
- The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010
This Order adds a mandatory condition regarding the requirement for an age verification policy by the holder of any licence or certificate that authorises the supply of alcohol.

8.2 Statutory guidance

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

- Paragraphs 8.34 - 8.42:
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.
- 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 a "Public House".
- 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.

Public houses in a residential area will generally be allowed alcohol sales to midnight only (other than for special occasions).

When issuing a licence, stricter conditions with regard to noise control and limitations to opening hours may be imposed in case of premises which are situated in residential areas and are subject to relevant representations.

- 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 **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, 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 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.
- 9.3 Applicant 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 Conditions Consistent with the operating schedule
The applicant does not feel there is a need to take any additional steps in order to promote the licensing objectives. There are no changes to the existing licensable activities, licensable hours, conditions permitted under their current licence or to the internal layout of the premises.
- 9.5 The applicant has however proposed a condition that alcohol sold from this bar will be served in plastic containers and this will now form part of the licence conditions (appendix 5).
- 9.6 Conditions proposed by the Responsible Authorities
None
- 9.7 Conditions proposed by Interested Parties
To address the residents' concerns a mediation meeting was held at the premises between the interested parties, officers and the applicant. During this meeting the residents proposed the following conditions to address the noise emanating from the premises and the applicant is in agreement:
1. The maximum capacity in the rear garden inclusive of the garden bar area at any one time will not be no more than 40 persons.
 2. The garden bar area to be operational each year from 1 April to 30 November for the sale of alcohol only between 14:00 hours and 22:45 hours and for consumption until 23:00 hours on Fridays and Saturdays and between 14:00 and 21:00 hours on Sundays and all Bank holidays.
 3. Condition 2 of Annex 2 to be amended of the existing licence to read as:

"All windows and rear door shall be kept closed during entertainment or quiz or similar events and on all other days after 21:00 hours.

In addition to the above the applicant has also addressed the residents' concern about smoke from the barbeque in the rear garden. Although not a licensable activity the applicant has agreed cooking will not start before 16:00 hours.

All the above three agreed conditions will now form part of the premises licence,. (A draft is set out at appendix 5).

9.8 Pool of Model Conditions

The licensing authority also has its own pool of model conditions that would mitigate the concerns. Officers would suggest that the following condition as appropriate given the concerns raised in the representations with regards to patrons noise when leaving the premises.

Condition	Reason
22 - Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly	To address the representations concerning public nuisance. This is appropriate, proportionate, reasonable and within the applicant's power to comply.

This does not restrict the Sub Committee's power to attach conditions from the pool (amended or otherwise) if they consider that they appropriate, proportionate, justifiable and within the applicant's power to comply with.

10.0 **OFFICERS' OBSERVATIONS**

10.1 The interested parties' properties lie to the rear of, and therefore back onto, The Load of Hay There is particular concern by residents' about the layout and the supply of alcohol from the rear garden bar. Representations have highlighted that any extension to the existing licensed area will potentially increase problems of noise, and anti-social behaviour, and the effect this could have on local residents. Noise emanating from the patrons leaving the premises, talking, congregating is becoming a regular feature and will potentially heighten.

10.2 The Sub-Committee should note that during the mediation the officers tried to address the noise problem and the parties reached some agreement. This resulted in the conditions being agreed that are set out in paragraph 9.7. However there are some areas that still need addressing and the representations were not withdrawn.

10.3 During this informal meeting the residents submitted evidence to show that the garden bar appears to be operational prior to the submission of the variation application (appendix 6). As a result of this the enforcement officer contacted the premises licence holder who advised that it was just an advertisement for the website and there was no sale or supply of alcohol. The licensing authority has not witnessed this bar being used and we have not had any complaints about it. However, the Sub-Committee should consider if any of this evidence is relevant and how much weight should be attached to it.

10.4 Members may wish to question the applicant with regards to their internal policy or procedures to monitor any outdoor areas or rear of the premises. The licensee needs to exercise control over smokers and drinkers in the

garden bar area during the operation period. The licensee and the staff have responsibility for the effective and safe management of their premises.

- 10.5 Some of the issues raised in the representations may not fall directly under the control of the applicant. Many of these issues will potentially arise whether the variation is granted or not. Issues such as parking, blocking of driveways should be considered as matters of personal responsibility and the extent to which the applicant can control this is limited. Some of these issues are already occurring, and any measures may prove hard to enforce so may be of limited benefit. These issues may not fall directly under the control of the applicant. Paragraph 2.24 of the statutory guidance 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 anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations”.

- 10.6 References have been made to patrons blocking the pathway and creating a hazardous blind spot for road users. Objections have been raised on grounds that the grant of this application is likely to increase traffic and potentially lead to parking congestion. For the committee to accept this as a valid ground for objection, 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 in relation to this particular application to allow alcohol sales in the rear garden.
- 10.7 Members should note that there is in existence other primary legislation that can deal with any concerns relating to smoke, parking and traffic congestion. Thus, in order to avoid statutory duplication it may not be appropriate for the committee to attach conditions relating to parking and traffic issues. Members may need to consider how the premises licence holder can influence and control such matters.
- 10.8 Members to note that the applicant has submitted evidence from one of the residents to indicate that the premises is well-run and offers an invaluable service for local residents (appendix 7).
- 10.9 Section 4 of the 2003 Act provides that in carrying out its functions, a licensing authority must have regard to guidance issued by the Secretary of State under Section 182. The Guidance is therefore binding on all licensing authorities unless they can find good reasons for the promotion of the licensing objectives to depart from it.
- 10.10 The Sub-Committee 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.
- 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.

Appendices

Appendix 1 - map of the premises' location

Appendix 2 - plan of the premises

Appendix 3 - current premises licence

Appendix 4 - representations from interested parties

Appendix 5 - draft premises licence

Appendix 6 - interested parties' evidence

Appendix 7 - applicants' evidence

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 (2014)

Licensing Act (Hearings) Regulations 2005

Watford Borough Council Licensing Policy (January 2013-18)

Watford Borough Council Pool of Model Conditions (July 2010)

File Reference

The Load of Hay