

PART A

Report to: Licensing Sub-Committee
Date of meeting: 2 July 2015
Report of: Head of Community and Customer Services
Title: Application for new premises licence:
Lux Restaurant and Bar, Gade House, 46 The Parade, Watford
WD17 1AY
15/00728/LAPRE

1.0 SUMMARY

- 1.1 An application has been received from Mr Neil Campbell on behalf of Hospitality Leisure Consultancy Limited for a new premises licence in respect of Lux Restaurant and Bar, Gade House, The Parade, Watford to allow alcohol sales for consumption on and off the premises and other licensable activities each day.

2.0 RECOMMENDATIONS

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

Contact Officer:

For further information on this report please contact: Jeffrey Leib, (Licensing Manager), tel: 01923 278476 email: jeffrey.leib@watford.gov.uk

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

3.0 **APPLICATION**

3.1 Type of authorisation applied for
Grant of a new Premises Licence.

3.2 Description of premises from the application form
Café, bar and restaurant

3.3 A map of the location of the premises is attached at appendix 1.

3.4 The plan of the premises is attached at appendix 2.

3.5 Licensable activities

Licensable activity	Permitted now	Proposed
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

	Proposed opening hours	Proposed alcohol sales hours	Proposed hours other licensable activities	Proposed late night refreshment hours
Sunday	1100 - 0130	1100 - 0100	1100 - 0100	2300 - 0100
Monday	1100 - 0130	1100 - 0100	1100 - 0100	2300 - 0100
Tuesday	1100 - 0130	1100 - 0100	1100 - 0100	2300 - 0100
Wednesday	1100 - 0130	1100 - 0100	1100 - 0100	2300 - 0100
Thursday	1100 - 0230	1100 - 0200	1100 - 0200	2300 - 0200
Friday	1100 - 0230	1100 - 0200	1100 - 0200	2300 - 0200
Saturday	1100 - 0230	1100 - 0200	1100 - 0200	2300 - 0200

4.0 **BACKGROUND INFORMATION**

4.1 The following background information is known about these premises:

4.2 Designated premises supervisor
Mr Neil Campbell

4.3 Current licences held
The premises were continuously licensed from 1997 for entertainment and alcohol sales. The licence lapsed when the previous licensees became insolvent in September 2014. The premises have been vacant since then.

4.5 Closing date for representations
12 June 2015.

4.4 Public notice published in newspaper
22 May 2015.

4.7 Visits and Enforcement action
Not applicable.

5.0 **PROMOTION OF LICENSING OBJECTIVES**

5.1 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.

5.2 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.

5.3 Applicants should give consideration to the local area and reflect this in their application (see the statutory guidance at paragraphs 8.33 – 8.36). It should

demonstrate an awareness of the local community, local crime and disorder issues, and the local environment.

6.0 RESPONSIBLE AUTHORITIES

6.1

<i>Responsible authority</i>	<i>Ground for representation</i>	<i>Appendix No</i>
Police	Crime and disorder	3
Licensing authority	Crime and disorder	4
Environmental Health	None	-
Trading Standards	None	-
Public Health	None	-
Fire & Rescue	None	-
Local Planning Authority	None	-
Childrens' Safeguarding	None	-

7.0 INTERESTED PARTIES

7.1 One representation (attached at appendix 5) has been received from interested parties:

Reference letter	Name	Address	Representative Body (Yes/No)	Relevance to which licensing objective
A	Central Town Residents' Association and Neighbourhood Watford	31 St John's Road	Yes	Public nuisance and crime and disorder

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):
These sections set out how an application for a premises licence should be determined where valid representations have been received.
- Section 19 (Mandatory conditions where licence authorises sale of alcohol)
This not only refers to the requirement for a designated premises supervisor with a personal licence to sell alcohol but also the mandatory conditions around pricing, irresponsible promotions and compulsory age verification procedures
- Section 21 (Mandatory conditions: door supervisors)
Door supervisors required to be employed by virtue of any other licence condition must be licensed by the Security Industry Authority
- 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 March 2015 statutory guidance, to which the licensing authority must pay regard, 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 appropriate 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 9.12:
This paragraph explains how the licensing authority should accept all reasonable and proportionate representations made by the Police unless the authority has evidence that to do so would not promote the licensing objectives. However, it is still the responsibility of the Police to ensure that their representations can withstand scrutiny.
- Paragraphs 9.30 – 9.39:
These paragraphs explain that hearings should be focussed 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 9.41 – 9.43
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.
- Paragraphs 10.13 – 10.14
The Government recognises that local licensing authorities are best placed to determine the operating hours for premises within their areas, providing each case is considered on its own merits and without reference to pre-determined hours. It is however acceptable to consider imposing conditions on a licence or to grant it for different hours than those sought.
- 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
The definition of the nature of the premises is necessary in order to apply policy LP2.
- Policy LP2 – Location and Operation of Premises
This policy sets out the anticipated operating hours for premises in the town centre where relevant representations have been received.
- Policy LP3 – Creating a Family-Friendly Town Centre
This policy sets out the licensing authority's approach towards different types of premises in the town centre and is intended to be strictly applied.
- Policy L6 – Prevention of Crime and Disorder
Under this policy the Sub-Committee will consider any appropriate measures to deal with the potential of crime and disorder where relevant representations have been received.
- 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.

8.4 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. **CONDITIONS**

9.1 The operating schedule, referred to above, sets out conditions that can be translated onto the premises licence if granted. A draft licence is set out at appendix 6 for the Sub-Committee to consider if it decides it is appropriate to grant the licence, and if it is appropriate to grant the conditions shown.

9.2 The starting point for dealing with applications where representations have been made should be to see whether there are any conditions that might address those concerns.

9.3 There are only two matters raised in the representations that specifically relate to conditions, which are discussed below:

(1) off-sales of alcohol from the premises late at night

(2) the operating hours of the premises.

9.4 The applicant has accepted a representation from Environmental Health to include the following condition on the licence:

A sound limiting device located in a separate and remote lockable cabinet from the volume control shall be fitted to any musical amplification system and set at a level determined by and to the satisfaction of an Environmental Health Officer to ensure that no noise nuisance is caused to local residents. The operational panel of the noise limiter shall then be secured to the satisfaction of an Environmental Health Officer or Licensing Authority authorised officer. The keys securing the noise limiter cabinet shall be held by the licence holder or authorised manager only, and shall not be accessed by any other person. The limiter shall not be altered without prior agreement of the Environmental Health Officer.

9.5 This does not restrict the Sub-Committee's power to attach conditions from the pool of model conditions (amended or otherwise) if they consider that they appropriate, proportionate, justifiable and within the applicant's power to comply with. Equally, the Sub-Committee may consider whether all of the proposed 54 conditions are actually appropriate to promote the statutory objectives and would be capable of being complied with and therefore need to be included on the licence.

10.0 OFFICERS' OBSERVATIONS

10.1 Operating hours

The representations do not object to the application per se, but there is a conflict between the licensing authority's policy objectives and the applicant's proposals. The objectives of LP2 and LP3 are clearly expressed in the licensing authority's representation and do not need repeating here in depth save to repeat they are intended to be strictly applied.

10.2 The policy objectives are to promote entertainment and food-led businesses, and it can be seen that the representations do not object to those parts of the application. However, LP3 explicitly states that the starting point for alcohol-led applications where relevant representations have been raised is to refuse them, unless the applicant can show they are an exception to the policy.

10.3 The police have indicated they would accept an amendment for alcohol to be sold until 0100 hours the next day on Thursday, Friday and Saturday (instead of 0200 hours), and for the premises to close at 0200 hours the next day (instead of 0230 hours).

10.4 Even those reduced hours may be contrary to policy LP2, depending on what type of premises Lux becomes late at night. The application form simply states it

is a “café, bar and restaurant”, and on that reading would be entitled to licensable activities until 0200 hours. Both the police and licensing authority cast doubts on that claim however based on the proposed operating schedule and pre-application discussions, where a number of features more commonly found in night-clubs and late-night bars (such as electronic identification systems, dispersal policies, door supervisors, seating capacities and last-entry times) can be found.

- 10.5 The licensing authority representation also points out the application does not demonstrate why or how, late at night, it can be seen as an exception to the LP3 policy by contributing to the family-friendly development of the town at that time of night; effects a real reduction in capacity of alcohol sales; or replaces vertical drinking establishments with seated consumption and waiter service.
- 10.6 It is for the applicant to demonstrate why they should be made an exception to the policy. Alternatively they may demonstrate to the sub-committee that they do fulfil the criteria as a late-night restaurant (entitling them to have licensable activities until 0200 hours) or a café-bar, if the proposals meet the definitions in policy LP1 to the sub-committee’s satisfaction. The sub-committee may wish to consider imposing further conditions to ensure that the premises does then operate in the manner described to it. It is relevant therefore that the application includes late-night refreshment both on and off the premises until 0200 hours, and that the premises is offering a condition for a full food menu to be available until at least an hour before closing. The sub-committee might want to consider the relevance of the occupancy figures being proposed, with a minimum of 130 covers out of a maximum proposed occupancy of 250 people for dining purposes.
- 10.7 Off-sales of alcohol
The police and the licensing authority raise concerns about alcohol being sold for consumption away from the premises late at night. Although the applicant has indicated this will be with take-away meals, the prospect has been raised of customers buying food and alcohol until 0200 hours and consuming both within the town centre in the early hours. This might slow down the rate of dispersal from the town, create potential conflict with people from other premises leaving after 0200 hours, and would almost be encouraging people to drink within the Designated Public Places Order zone. It would also cause some confusion for nearby premises which the police and licensing authority have for many years actively encouraged to ensure customers do not leave their premises with bottles, glasses or cans at night. The sub-committee may feel that it would be appropriate to prevent crime, disorder and public nuisance by not allowing this activity on the licence or at least until such a late hour (see draft licence, annex 2, condition 12).
- 10.8 In this context the sub-committee might wish to note policy LP2, under which town centre off-licences would generally only be granted licences to sell alcohol until 8 pm where relevant representations have been made.
- 10.9 As the sub-committee is aware, it may depart from its own statement of licensing policy if it has good reason to do so in order to promote the licensing objectives.

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 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 – representation by police

Appendix 4 – representation by licensing authority

Appendix 5 – representation from interested party

Appendix 6 - 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
(March 2015)

Licensing Act (Hearings) Regulations 2005

Watford Borough Council Licensing Policy (January 2013-18)

Watford Borough Council Pool of Model Conditions (March 2013)

File Reference

Lux, The Parade