

PART A

Report to: Licensing Sub-Committee
Date of meeting: 10 July 2015
Report of: Head of Community and Customer Services
Title: Application for variation to premises licence:
Twisted Monkey, Ground Floor, Gade House, 46 The Parade,
Watford WD17 1LJ
15/00732/LAPRE

1.0 SUMMARY

- 1.1 An application has been received from REL Watford Limited to vary the existing premises licence in respect of Twisted Monkey, Ground Floor, Gade House, 46 The Parade, Watford to increase the opening hours, alcohol sales and licensable activities, and to make amendments to the current licence conditions.

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:

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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

Twisted Monkey is a ground floor bar centrally located on The Parade. It is linked internally to a basement nightclub premises which it is important to note that although under the same ownership and management is subject to a separate premises licence. Twisted Monkey offers coffees, cocktails, wines, beers and Pan-Asian street food, as well as a variety of entertainment.

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

3.7 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	✓	✓

3.8 Licensable activities

Hours shown in bold indicate where a variation is being sought.

	Existing opening hours	Proposed opening hours	Existing on and off alcohol hours	Proposed on and off alcohol hours	Existing licensable activity hours*	Proposed licensable activity hours*	Existing late night refresh't hours	Proposed late night refresh't hours
Monday	1000 - 0200	1000 – 0300	1000 - 0130	1000 - 0230	1200 - 0200	1200 - 0200	2300 - 0200	2300 - 0300
Tuesday	1000 - 0200	1000 – 0300	1000 - 0130	1000 - 0230	1200 – 0200	1200 – 0200	2300 – 0200	2300 – 0300
Wednesday	1000 - 0200	1000 – 0300	1000 - 0130	1000 - 0230	1200 – 0200	1200 – 0200	2300 – 0200	2300 – 0300
Thursday	1000 - 0200	1000 – 0300	1000 - 0130	1000 - 0230	1200 – 0200	1200 – 0200	2300 – 0200	2300 – 0300
Friday	1000 – 0300	1000 – 0300	1200 – 0300	1000 - 0230	1200 – 0300	1200 – 0300	2300 – 0200	2300 – 0300
Saturday	1000 – 0300	1000 – 0300	1200 – 0300	1000 - 0230	1200 – 0300	1200 – 0300	2300 – 0300	2300 - 0300
Sunday	1200 – 0100	1200 - 0100	1000 - 0000	1000 - 0230	1000 - 0030	1000 - 0030	2300 – 0300	2300 - 0300
Good Friday	1000 – 0300	1000 – 0300	1200 - 0200	1200 - 0200	1200 - 0300	1200 - 0300	2300 – 0300	2300 - 0300
Christmas Day	1000 – 0200 (Mon – Thu) 1000 – 0300 (Fri – Sat) 1200 – 0100 (Sun)	1000 – 0200 (Mon – Thu) 1000 – 0300 (Fri – Sat) 1200 – 0100 (Sun)	1200 – 0030 (Mon – Thu) 1200 – 0200 (Fri – Sat)	1200 – 0030 (Mon – Thu) 1200 – 0200 (Fri – Sat)	1200 – 0200 (Mon – Thur) 1200 – 0300 (Fri – Sat) 1000 – 0030 (Sun)	1200 – 0200 (Mon – Thur) 1200 – 0300 (Fri – Sat) 1000 – 0030 (Sun)	2300 – 0000	2300 – 0000

	Existing opening hours	Proposed opening hours	Existing on and off alcohol hours	Proposed on and off alcohol hours	Existing licensable activity hours*	Proposed licensable activity hours*	Existing late night refresh't hours	Proposed late night refresh't hours
New Year's Eve	1000 – 0000 (Mon – Sat) 1200 – 0000 (Sun)	1000 – 0000 (Mon – Sat) 1200 – 0000 (Sun)	1000 – 0000	1000 – 0000	1200 – 0000 (Mon – Sat) 1630 – 0000 (Sun)	1200 – 0000 (Mon – Sat) 1630 – 0000 (Sun)	2300 – 0500	2300 – 0500
New Years' Day	0000 – 0200 (Mon – Thur) 0000 – 0300 (Fri – Sat) 1200 – 0100 (Sun)	0000 – 0200 (Mon – Thur) 0000 – 0300 (Fri – Sat) 1200 – 0100 (Sun)	0000 - 0000	0000 - 0000	0000 – 0200 (Mon – Thur) 0000 – 0300 (Fri – Sat) 1200 – 0100 (Sun)	0000 – 0200 (Mon – Thur) 0000 – 0300 (Fri – Sat) 1200 – 0100 (Sun)	None	2300 - 0300

* Recorded music permitted 24 hours a day

4.0 **BACKGROUND INFORMATION**

4.1 The following background information is known about these premises:

4.2 Designated premises supervisor

Terry Marks

4.3 Current licences held

The premises have been licensed for alcohol, entertainment and late night refreshment since 2005 (licence 05/01463/LAPRE) and was indeed licensed since around 2003 under the previous public entertainment licensing regime. An earlier licence (15/00023/LAPRE) was transferred on 2 January 2015 following the liquidation of the previous operator, and transferred to the current applicant on 8 April 2015 (15/00528/LAPRE).

4.4 Closing date for representations

15 June 2015.

4.5 Public notice published in newspaper

22 May 2015

4.6 Visits and Enforcement action

None

5.0 **PROMOTION OF LICENSING OBJECTIVES**

5.1 See paragraphs 9 and 10 below.

6.0 **RESPONSIBLE AUTHORITIES**

6.1 No representations have been received from responsible authorities.

7.0 **INTERESTED PARTIES**

7.1 One representation (attached at appendix 3) has been received from the Central Town Residents' Association and Neighbourhood Watch Group 57.

8.0 **POLICY CONSIDERATIONS**

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

- Sections 34 and 35 (Variations for premises licence):
These sections set out how an application to vary a premises licence should be determined where valid representations have been received.
- 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 October 2014 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.
- 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 explains 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.
- 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 premises appear to meet the criteria as an "other drinking establishment" in that it is primarily for the sale of alcohol and food for consumption on the premises, includes other licensable activities, and includes a "drinking up period".
- Policy LP2 – Location and Operation of Premises
"Other drinking establishments" within the town centre are entitled under the policy to generally operate until midnight only and until 10.30 pm on Sundays (other than special occasions). See however paragraph 10, below.

- 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.
- 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.
- 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.

9.0 **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 are 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 (see the statutory guidance at paragraphs 8.33 – 8.36). They should demonstrate an awareness of the local community, local crime and disorder issues, and the local environment.

9.4 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. A draft licence is set out at appendix 3 should the Sub-committee be minded to grant the application. It includes a number of additional and amended conditions, as indicated on the draft.

10.0 OFFICERS' OBSERVATIONS

10.1 Merits of the application

The Sub-Committee may be aware that these premises and the adjoining basement club have been vacant for some time since the liquidation of the previous occupier. The applicant, REL Limited, have transferred both premises licences and have refurbished the ground floor premises.

10.2 The applicant has spent several months in meetings and detailed negotiations with licensing authority officers, the police, and also met the directors of the Wilmington Close residents' association. They have also tried unsuccessfully to engage with the Central Town Residents' Association although no criticism at all is levelled at the Association that this has not happened. During those meetings the applicant has carefully reviewed the current premises licence and proposed a number of conditions to meet the concerns of the responsible authorities and local residents to promote the statutory objectives with balancing their need to run a profitable business.

10.3 Whether the applicants are able to run a profitable business, and whether there is a demand for alcohol-licensed premises, are not matters for the sub-committee to take into account. However, it can be argued that objectives within the licensing authority's policy to promote a safe and vibrant night-time economy would be relevant matters.

10.4 Policy

Policy LP1 would define these premises as an "other drinking establishment" and accordingly would only be entitled under policy LP2 to operate until midnight (other than for special occasions) and until 10.30 pm on Sundays, unless an exception can be shown.

10.5 Even without the variation, the premises licence exceeds the hours set out in the policy. This is because the original licence, granted in 2005, pre-dated the current policy.

10.6 Policy Exception

Nevertheless, the applicant still has to demonstrate that they are an exception to policy LP3 in order to benefit from the additional hours that they are seeking. The policy seeks to encourage food and entertainment-led premises at the expense of alcohol-led premises. It is intended to be strictly applied and states that the starting point for applications where relevant representations have been granted is to refuse applications for alcohol-led premises unless:

(1) the application contributes to the family-friendly development of the town centre; or

(2) effects a real reduction in capacity of alcohol sales; or

(3) replaces vertical drinking establishments with seated consumption and waiter service.

- 10.5 Officers believe that the applicant would meet criteria (2) and (3) set out in the preceding paragraph. The nature of the premises and discussions with the applicants indicate it will be more of a cocktail venue than a vertical drinking establishment, and the capacity will be reduced from 500 to 450 accordingly. The applicant has also discussed with the licensing authority officers and the police the scope of the food and entertainment that is being offered, which in themselves are different from other premises in the LP2 area to warrant an exception being considered. The sub-committee may wish to note that the applicants altered their proposed closing times in the pre-application discussions to accommodate police concerns.
- 10.6 The premises may not directly contribute to the family-friendly development of the town centre as part of the twilight or evening economy, but the Sub-Committee will note that the exceptions are alternatives not mandatory requirements to be met.
- 10.2 Representation
The Residents' Association objects to any expansion in licensed hours in the town centre, with concerns about the consequent increase in alcohol-related crime, disorder and anti-social behaviour. They are also concerned with late-night dispersal of licensed premises customers as they radiate out from the town centre in the early hours on their way home.
- 10.3 The representation refers to the basement premises and to an application under the Highways Act 1980 for a pavement licence. Each case has to be considered on its own merits and these are two separate applications. (For the sake of clarity, an application for a pavement licence has been granted until 10 pm with a separate smoking area agreed with the police available until 2 am).
- 10.4 The impact on local residents of this application is of course a relevant consideration for the sub-Committee to take into account. Officers would point out that whilst the sub-Committee is entitled to be forward-looking and can take into account hearsay evidence about concerns, there is little evidence that granting the application to these particular applicants over and above what is currently in place would undermine the public nuisance raised in the representation.
- 10.3 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.
- 10.4 The Sub-Committee will be aware that even if this application is rejected in total the applicants will still be able to operate the premises under the existing licence.
- 10.4 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.

10.5 The Sub-Committee will be aware that either the applicant or the interested party has the right to appeal within 21 days to the magistrates' court against its' decision.

Appendices

Appendix 1 - map of the premises' location

Appendix 2 - plan of the premises

Appendix 3 – representation

Appendix 4 - 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
(October 2014)

Licensing Act (Hearings) Regulations 2005

Watford Borough Council Licensing Policy (January 2013-18)

Watford Borough Council Pool of Model Conditions (March 2013)

File Reference

Twisted Monkey