

PART A

Report to: Licensing Sub-Committee
Date of meeting: 3 August 2015
Report of: Head of Community and Customer Services
Title: Application for Variation of Premises Licence:
D & S Food and Wine, 56B Vicarage Road, Watford WD18 0HB
15/00822/LAPRE

1.0 **SUMMARY**

1.1 An application has been received from Sureshkumar Subramaniam to vary the existing premises licence for D & S Food and Wine, 56B Vicarage Road, Watford to increase the sale of alcohol hours, the opening hours, and to make amendments to the current licence conditions. One representation has been received from an interested party.

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:

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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 Mr Sureshkumar Subramaniam.

3.2 Description of premises (from the application form)
The premises are a small convenience store with an off licence located on Vicarage Road which is just outside the Town Centre. The store is a few yards away from the Vicarage Road Football stadium.

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 applicant has applied for a variation of their existing premises licence to extend the hours during which alcohol may be sold.

	Existing opening hours	Existing hours for alcohol sales	Amended opening hours	Amended hours for alcohol sales
Monday to Sunday	07:00-23:00	07:00-23:00	06:00-00:00	07:00-00:00

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 Mr Sureshkumar Subramaniam who has also been the premises licence holder since it was granted.

4.3 Current licences held

Premises licence was first granted to Mr Subramaniam (the current premises licence holder and DPS) on 1 October 2013 (13/01006/LAPRE).

4.4 Closing date for representations

1 July 2015

4.5 Public notice published in newspaper

As required under the Licensing Act 2003, this application has been advertised in the local newspaper dated 12 June 2015 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**

Taken from the applicant's operating schedule (appendix 3).

5.1 General

The application indicates the steps taken to promote the licensing objectives will be as per the existing licence with the exceptions of those conditions which are requested to be added and removed through this application.

6.0 **RESPONSIBLE AUTHORITIES**

6.1 None of the responsible authorities have made representations about this application. The application being presented was amended following discussions with the police, licensing authority and Environmental Health.

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	Mrs Eve Toogood	10 Clifton Road	No	Public Nuisance and Crime and disorder

7.3 During the informal meeting with officers the interested party raised her concerns regarding public nuisance and the issue of street drinkers congregating in an unlocked alleyway. She is also concerned that the current hours of operation are enough and there is 'no need' for an extension of hours as any extension of hours would attract further street drinkers.

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.
- Paragraphs 9.30 – 9.39:
These paragraphs explain the 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.
- Paragraph 10.13:
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 will generally be allowed alcohol sales in accordance with the normal opening hours of the shop

- Policy LP6 (Prevention of Crime and Disorder):
Under this policy the Sub-Committee will particularly consider the likelihood of any anti-social behaviour, violence, public order or policing problem if the licence is granted.
- 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 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 Consistent with the Operating Schedule (attached at appendix 3)

Conditions volunteered by the applicant

On football match days at Vicarage Road Stadium the following shall apply:

1. Customers shall not be allowed to congregate outside the premises and a notice shall be displayed to this effect.
2. The DPS shall work in partnership with the Police and if necessary, comply with any direction given by the most senior Police Officer on duty at the event
3. On any day the premises are open after 2300 hours, there will be a minimum of two staff members at the premises from 2300 hours until the premises closes to the public.

9.2 Following representations from the Police, Public Health, Environmental Health and Licensing Authority which have now been withdrawn, the applicant has agreed to amend the hours and also in agreement that the proposed removal of conditions to remain on licence. All of the conditions that would appear on any granted premises licence can be found on the draft premises licence at appendix 5.

9.3 To address the crime and disorder concern in the area the applicant in agreement with Police has modified Condition 15 as follows:

“For high risk matches the sale of alcohol would be restricted, 30 minutes before and after kick off, 30 minutes after the final whistle at the request of a police representative”. Refer to appendix 5.

Removal of condition 18 does not make much difference as it appears under the mandatory condition 3 which stays on the premises licence.

9.4 Pool of Model conditions

The licensing authority also has its own pool of model conditions. Officers have not suggested any further conditions from the pool that would help to address the concerns of the interested party.

10.0 **OFFICERS' OBSERVATIONS**

10.1 The premises are located within a commercial and residential area. Vicarage Road has a history of alcohol-related anti-social behaviour, largely predicated around on-street drinkers.

10.2 During the meetings officers highlighted to the applicant's representative that the existing conditions on licence were particularly aimed at

discouraging street drinkers from frequenting the premises. By not stocking super-strength beers, lagers or cider of above 6% ABV (alcohol by volume) or above the applicant would not be selling the products favoured by the street drinkers. These conditions were to deter and discourage street drinkers. Police and responsible authorities have strongly objected to the removal of those conditions and were concerned in relaxing these conditions in question as this could encourage a return to alcohol-linked anti-social behaviour. The applicant's representative having given considerable thought compromised to amend the sale of alcohol hours until midnight and to withdraw the request for removal of conditions 1, 2, and 3 at Annex 2, therefore it is now proposed that these conditions remain.

- 10.3 An informal meeting was arranged to address the interested party's concerns of public nuisance and anti-social behaviour. The Sub-Committee should note that some of the issues raised during the meeting may not fall directly under the control of the applicant. Many of these will potentially arise whether the variation is granted or not. Issues such as congregation of street drinkers in an unlocked alleyway should be considered as matters of personal responsibility and the extent to which the applicant can control this is limited. Also as there is no evidence the problem of street drinkers cannot be directly attributed to the premises which is the subject of this application. Committee Members may wish to note that the unlocked alleyway which is one shop away from the premises, Police have done some preliminary work by speaking to the local residents and businesses and are monitoring this area with regards to street drinkers and antisocial behaviour as part of the police's patrols.
- 10.4 The Sub-Committee should note that paragraph 2.20 of the statutory guidance clearly 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".
- 10.5 The interested party representation also refers to whether there is a need for this application. The Sub Committee will know – apart from the fact the premises are already in place selling alcohol – that the question of demand is an irrelevant consideration to take into account.
- 10.6 This does not restrict the Sub-Committee's power to attach conditions from the pool (amended or otherwise) if they consider they are appropriate, proportionate, justifiable and within the applicant's power to comply with. A draft licence is set out at appendix 4 for reference should the Sub-Committee resolve to grant the variation.

- 10.7 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.

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 – location of the premises
Appendix 2 – plan of the premises
Appendix 3 – operating schedule
Appendix 4 – interested party representation
Appendix 5 – 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 (November 2013-November 2018)

Watford Borough Council Pool of Model Conditions (March 2013)

File Reference

D & S Wines 56B Vicarage Road, Watford.