

Meeting Licensing Committee

Portfolio Area Communities, Community Safety and Equalities

Date 3 April 2023

APPLICATION FOR THE GRANT OF A PREMISES LICENCE – TODAY FISH AND GRILL, 10 MIDDLE ROW, STEVENAGE, SG1 3AW.

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1 PURPOSE

1.1 To determine an application for the Grant of a Premises Licence for Today Fish and Grill, 10 Middle Row, Stevenage. SG1 3AW. Local residents have made representations against this application.

2 RECOMMENDATIONS

2.1 That the Committee reviews the evidence presented by the responsible authorities and applicant (and/or representatives) and determines what action should result in respect of this application, for the grant of a premises licence.

3 SUMMARY OF APPLICATION

3.1 SWME Foods Ltd have applied for the grant of a premises licence for Today Fish & Grill, 10 Middle Row, Stevenage SG1 3AW. The premises wish to trade as a hot food takeaway, with limited instore seating for 6 persons. The application proposes to provide Late night refreshment for takeaway and

delivery between 23:00hrs and 00:00hrs, the premises will then be closed to the public at 00:00hrs and late-night refreshment will be provided by delivery only between 00:00hrs and 03:00hrs when orders will be taken via telephone, app, and online sales. There is a small area outside at the front of the premises which is shown on the plan which the applicant proposes to use for outside seating which will cease at 23:00hrs, this will require the applicant to apply for a pavement licence which will be considered separately from this application for the grant of premises licence.

This application was accepted as valid and duly made by the Council on 8th February 2023. A copy of the application is attached at Appendix A.

4 BACKGROUND INFORMATION

- 4.1 Today Fish and Grill will be occupying a commercial premise located on Middle Row, a pedestrianised lane between the High Street and Church Lane.
- 4.2 The premises is surrounded by other commercial properties which include retail outlets and a barber shop. There are also residential properties located above some of the ground floor premises which run along Middle Row, as well as premises at first floor level on roads adjacent to Church Lane. A location map is attached at Appendix B.
- 4.3 There are other premises providing late night refreshment within proximity to Today Fish and Grill, located in Middle Row and Baker Street.
- 4.4 The Tarla restaurant, 23-25 Middle Row are licensed to provide late night refreshment Monday to Saturday 23:00hrs until 00:30hrs and Sunday 23:00hrs until 00:00hrs, they are also licensed for the sale of alcohol Monday to Saturday 10:00 until 00:00hrs and Sundays 12:00hrs until 23:30hrs. This premises is permitted to remain open 24hrs a day. El Bar De Tapas which is located at 5A Middle Row, are licensed to provide late night refreshment Monday to Sunday 23:00hrs until 00:00hrs, the playing of recorded music and the sale of alcohol Monday to Sunday 09:00hrs until 00:00hrs. They are also licensed for the performance of live music Monday to Sunday 09:00 until 23:00hrs. This premises closes at 00:00hrs, 7 days a week. Ritty's Place which is located at 6 Baker Street is licensed for the provision of late night refreshment Monday to Sunday 23:00hrs until 23:30hrs, it is also licensed for the playing of recorded music Monday to Sunday 07:00hrs until 23:00hrs and for the sale of alcohol 12:00hrs until 23:30hrs, this premises is permitted to remain open until 00:00hrs.
- 4.5 The premises, 10 Middle Row was previously un-occupied and has been for some time.

5 RESPONSIBLE AUTHORITIES

- 5.1 Representations have been made by two of the Responsible Authorities, the Local Planning Authority and Environmental Health.

The Principal Planning Officer and Development Manager for the Local Planning Authority, has concerns relating to the licensing objective prevention of public nuisance. To summarise, The Local Planning Authority in their representation refer to Policy FP7: Pollution of the Stevenage Borough Local Plan 2011-2031 (adopted May 2019) that states all development proposals should minimise, and where possible, reduce air, water, light and noise pollution and have concerns with regards to public nuisance.

Planning condition 4 of planning permission 22/00309/FP restricts hours of operation:

Unless otherwise agreed in writing by the Local Planning Authority, the use of the premises for the purposes hereby permitted shall operate only between the hours of 11:00 and 00:00 Mondays to Sundays, including Public or Bank Holidays. This is to protect the amenity of the occupiers of adjoining properties. The proposed hours of operation will likely have a detrimental impact on the amenities of nearby noise sensitive receptors, i.e., residential properties, along the High Street as well as those to the rear of the premises on Middle Row and Church Lane.

- 5.2 Environmental Health have concerns relating to the licensing objective prevention of public nuisance. To summarise, whilst there do not seem to be any noise-sensitive premises in the vicinity of the premises, the operation of the business until 03:00hrs seems excessively late, and is likely to lead to some noise disturbance at such a late hour in the wider community and thus would not support the objective of 'Prevention of Public Nuisance'

6 INTERESTED PARTIES

- 6.1 Representations have been made by two local residents, one residing on Middle Row and the other on Baker Street, a representation has also been received from the owner of a local business at 15 Middle Row. All have concerns relating to the licensing objective 'prevention of public nuisance' that the proposed late hours will likely encourage groups of people to congregate outside the premises and create considerable nuisance to businesses and residents in the nearby vicinity.

Representations are attached at Appendix C.

The Licensing Officer has liaised with the applicant to discuss the representations received. The applicant has voluntarily amended their application for the grant of a premises licence by amending the finish time for late night refreshment from 03:00hrs to 00:00hrs for both delivery and takeaway. The premises will be closed to the public at 00:00hrs.

The proposals made by the applicant to voluntarily amend their application have been passed to those responsible authorities and local residents who have made representations. The Local Planning Authority and Environmental Health have withdrawn their representations following the amendments made, prior to the end of the consultation period. Representations received from local residents remain upheld upon the deadline for the publishing of this report.

7 IMPLICATIONS

7.1 Financial Implications

7.1.1 There are no financial or resource implications arising from the content of this report.

7.2 Legal Implications

7.2.1 The Committee is advised that paragraphs 9.31- 10.10 of the Guidance under section 182 of the Act describe the powers of a Licensing Authority on the determination of an application.

7.2.2 The following options are available to the committee under section 18(4) (a) and (d) of the Licensing Act 2003:

- To modify the conditions of the licence
- To reject the whole or part of the application

7.3 Policy Implications

7.3.1 *Stevenage Borough Council Statement of Licensing Policy 2020 – 2025*

The following sections of the licensing authority's statement of licensing policy apply to this application:

1.5 The specific activities which require a licence under the provisions of the Act are covered in the policy statement and includes:

- The supply of any hot food or drink between 11pm and 5am.

1.6 In determining a licence application, the principle adopted by Licensing Authority will be that each application will be determined on its merits. In considering every application, under the terms of this policy, regard will be given to Government guidance under Section 182 of the Act, to the Act generally, and to any supporting regulations issued by Central Government.

1.7 Any individual preparing an operating schedule is at liberty to volunteer any measures as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, these measures become enforceable under the law and a breach of such a condition could result in prosecution.

2.4 The Council's Planning Policies are set out in its Local Development Scheme Government guidance in the form of Planning Policy Guidance (PPG) and National Planning Policy Framework (NPPF) are also relevant when applying for premises licences and reference to these will be made.

2.5 Licensing is separated from planning and licence applications will not, therefore, be a re-run of the planning application. In general, the Licensing Authority will expect that, prior to the submission of a licensing application; the

appropriate planning permission will have been resolved before a licence application is made and that any change to operating hours sought does not exceed those authorised by the planning permission. It is recognised that in certain situations a provisional statement may be sought alongside planning permission.

3.2 The Licensing Authority will consider each application on its own merits, but may make reference to other adopted Council policies outlined in the policy.

6.1 Responsible authorities are public bodies that must be fully notified of applications and are entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a premises licence for all premises, a list of the responsible authorities are outlined in the policy.

12.5 The Licensing Authority will deal with the issue of licensing hours having Due regard to the individual merits of each application. However, Consideration will be given to imposing stricter conditions in respect of noise control where premises are situated in mainly residential areas and representations have been made to the Licensing Authority.

13.1 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Act. Where representations are made and if considered necessary, conditions will be attached to licences, certificates and permissions that will address matters which are within the control of individual licensees and any mandatory conditions prescribed in the Act itself.

13.2 The Licensing Authority may not impose any condition unless it has been satisfied at a hearing of the necessity to impose conditions on the basis of the representations raised. It will then only impose conditions necessary to promote the licensing objectives.

13.3 When considering conditions, the Licensing Authority will primarily focus on the impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the vicinity of the premises. The vicinity means those locations where the licensed premises can be identified as the source or cause of concern.

13.4 The Licensing Authority acknowledges that the licensing function is not to be used for the general control of anti-social behaviour by individuals when they are beyond the direct control of the licensee and the vicinity of any premises concerned. However, as a matter of policy, the council expects every holder of a licence, certificate or permission to be responsible for minimising the impact of their activities and any anti-social behaviour by their patrons in the vicinity of their premises.

[Statement of Licensing Policy 2020-2025 \(stevenage.gov.uk\)](https://www.stevenage.gov.uk)

7.3.2 Guidance issued under section 182 of the Licensing Act 2003

The Committee is reminded of the Guidance issued under section 182 of the Licensing Act 2003. These particular sections are relevant to this application:

- Application for Premises Licences paragraphs 8.1 – 8.9
- Determining Applications paragraphs 9.1 – 9.30

7.4 Equalities and Diversity Implications

7.4.1 Any decision by the Committee is based on evidence before it at the meeting; there are no equalities and diversity implications.

7.5 Crime and Disorder

7.5.1 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 BACKGROUND DOCUMENTS

BD1 Licensing Act 2003

BD2 Stevenage Borough Council, Statement of Licensing Policy 2020-2025

BD3 Guidance issued under section 182 of the Licensing Act 2003

9 SUPPLEMENTARY INFORMATION

Following the consultation period for this application, the Licensing officer has tried to engage with local residents who have made representations, in order to discuss what has been applied for and the amendments which have been made to this application. To date I have received little response.

A further written response was received from one of the local residents making representations, who despite the amendments made to the application still has concerns relating to crime and disorder and public nuisance, likely to be caused by groups of people congregating in the vicinity of the premises. This response is attached at Appendix D

10 APPENDICES

A Application to vary a premises licence

B Location map

C Representations from Responsible Authorities and interested parties

D Further response from local resident