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| Meeting | Licensing Committee |
| Portfolio Area | Communities, Community Safety and Equalities |
| Date | 10 th March 2023 |

APPLICATION FOR A VARIATION OF PREMISES LICENCE – THE TRANQUIL TURTLE – SYMONDS GREEN LANE, SYMONDS GREEN STEVENAGE, SG1 2HP.

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1 PURPOSE

- 1.1 To determine an application for the variation of a Premises Licence for The Tranquil Turtle, Symonds Green Lane, Symonds Green, Stevenage SG1 2HP. Responsible authorities and local residents have made representations against this application.

2 RECOMMENDATIONS

- 2.1 That the Committee reviews the evidence presented by the responsible authorities, local residents, and applicant (and/or representatives) and determines what action should result in respect of the Variation of Premises Licence application.

3 SUMMARY OF APPLICATION

- 3.1 Greene King Retailing Ltd has applied for the variation of the Premises Licence for The Tranquil Turtle, Symonds Green Lane, Symonds Green. Stevenage SG1 2HP.
- 3.2 The variation proposes an amendment to the layout in accordance with the submitted plan. The main changes include new fencing, temporary scaffolding (including a cover over part of the external area), reconfiguration of the external area to include the external (drinks) servery, fixed seating, and the locations of fire equipment.
- 3.3 Further changes to the licensing conditions are detailed within the application.
- 3.4 There are no proposed changes to the hours of operation nor the hours during which licensable activities can take place.
- 3.5 This application was accepted as valid and duly made by the Council on 17th January 2023. A copy of the application is attached at Appendix A.

4 BACKGROUND INFORMATION

- 4.1 The Tranquil Turtle is a licensed premises which operates as a restaurant/bar. The premises is situated in a semi-rural part of Stevenage. Although the premises are bounded by residential properties, they stand alone with no adjoining properties; they also stand back from the road. A location map is attached at Appendix B
- 4.2 The Premises Licence, which is currently in place, permits licensable activities including the sale of alcohol and the playing of recorded music to take place both inside the premises and in the outside area. A copy of the current premises licence and plan is attached at Appendix E.
- 4.3 As a result of the de-regulation of the Licensing Act 2003 by the Live Music Act 2012 no permission/licence is required for a performance of amplified live or recorded music between 08.00hrs and 23.00hrs on any day on a premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500 people, therefore any existing licence conditions which relate to live or recorded music remain in place but are suspended during these times.
- 4.4 The premises had previously operated as a pub called the Crooked Billet. Following renovation of the premises and the arrival of a new management team, the premises licence holder Greene King Retailing Ltd submitted an application for a full variation of premises licence on 11th October 2021, the application was to change the layout of the premises following the renovations with proposals to extend the supply of alcohol and late night refreshment (The provision of hot food and drink) Sunday to Thursday until 00.00hrs instead of 23.00hrs, and Friday and Saturday until 01.00hrs instead of 00.00hrs. The application also proposed to extend the opening time of the premises by 30 minutes and to remove five of the Annex 2 licensing conditions replacing them with nine clearer, more substantially worded, conditions. Following the receipt of representations from local residents the

application went to a hearing and the variation application was subsequently granted.

- 4.5 The Tranquil Turtle has been subject to multiple complaints relating to noise and public nuisance over the last 6 months. On 7th August 2022 the premises held an Ibiza music event outside which went on until 23.00hrs. Twenty noise complaints were received by Environmental Health and licensing from residents and Noise App recordings were provided. Both Licensing and Environmental Health visited the premises on 10th August 2022 to remind the Tenant and his team of their duty to promote the four licensing objectives, since, although they had been working within the conditions and timings on their licence, they had not sufficiently managed the noise levels for this event. Licensing team are aware that calls were made to the police regarding the noise levels at this event.
- 4.6 Licensing and Environmental Health visited the premises again on 13th October 2022, following the receipt of multiple complaints from local residents with regards to an outside music event which was held on 8th October 2022. Reports were received from residents living ¼ mile from the premises complaining of excessive noise, some residents expressed concerns that the premises were operating beyond the remit of their licence stating that the music had continued outside until 01.30hrs. The Tenant confirmed that guests were taken inside at 23.00hrs and entertainment continued inside. He said that customers were dispersed, and the premises closed at 01.30hrs, except for staff who were cleaning up. Licensing team are aware that calls were made to the police regarding the noise levels at this event.
- 4.7 During the meeting on 13th October 2022 the Licensing Officer observed some substantial changes to the structure and layout of the premises and the addition of a scaffold style structure and outside bar. There was therefore a change to the plan which was attached to the premises licence and an application for a variation of premises licence was required. It is this application which is the subject of the hearing today.
- 4.8 Whilst carrying out investigations into the complaints received, it has come to the attention of Licensing officers that there are three licensing conditions which are in place which are currently not shown on Annex 2 of the premises licence for the Tranquil Turtle, and this appears to have been the case since the granting of the licence following the variation application in October 2021. An investigation by the Commercial and Licensing Manager identified that the omission was due to human error. The three conditions are:
- No external regulated entertainment
 - External background music to be turned off at 21.00hrs
 - No external drinking after 23.00

Greene King have been advised of this error, and the three conditions will be reinstated, and an amended licence issued following the result of this hearing.

- 4.9 The Licensing Officer has undertaken a thorough audit of the premises, the current operation, and the licensing conditions. Despite the omission of the three conditions outlined in paragraph 4.8, and aside from the requirement for this application for a variation of a Premises Licence, there is no evidence that the premises have breached their licence, or the conditions attached to it. All Noise App recordings received with regards to events being held in the outside area seem to have been recorded prior to 23.00hrs, and therefore conditions relating to music prior to 23.00hrs are not enforceable.
- 4.10 Environmental Health continue their investigations into reports of noise nuisance

5 RESPONSIBLE AUTHORITIES

- 5.1 Representations have been made by two Responsible Authorities, namely Stevenage Borough Council's Development Management and Environmental Health services. These are attached at Appendix C.
- 5.2 The Development Manager for Stevenage Borough Council, has concerns relating to the licensing objective 'prevention of public nuisance'. To summarise, The Local Planning Authority, in their representation, refer to Policy FP7 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, that the use of the outdoor servery for the sale of alcohol in conjunction with the fixed outdoor seating area which is covered by the scaffolding structure is likely to give rise to a greater public nuisance to nearby residential properties.
- 5.3 The Commercial and Licensing Manager from Environmental Health also has concerns relating to the licensing objective 'prevention of public nuisance'. To summarise, Environmental Health in their representation are of the opinion that, at certain times of the year, when the outside area is in regular use, the Tranquil Turtle may affect residents due to outdoor noise levels from both music and people noise. Environmental Health have concerns that the scaffold structure will enable the outdoor area to be used routinely, as the premises' events could continue in all weathers and that it is therefore foreseeable that such activity could give rise to a statutory nuisance.

6 INTERESTED PARTIES

- 6.1 Representations have been made by local residents; these are attached at Appendix C.

- 6.2 Local residents have concerns relating to the licensing objectives 'public safety' and 'prevention of public nuisance'. To summarise, they consider that the scaffolding structure and covering may pose a risk to public safety and that increased use of the outdoor area, due to the provision of shelter, will likely give rise to a greater public nuisance to nearby residential properties.

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 9.1 – 9.10 & 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 35(4) (a) and (b) 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:

17.2 The Licensing Authority, in determining if the application for a review is relevant, will have regard to the current guidance issued by the Secretary of State under section 182 of the Act in so far as to whether an application is frivolous, vexatious or repetitious. Representations made by a responsible authority cannot be deemed as being frivolous, vexatious, or repetitious.

17.4 In instances where the crime prevention objective is being undermined, revocation, even in the instance of this being a first review of the premises licence, or club premises certificate, will be given serious consideration.

7.3.2 *Revised guidance issued under section 182 of the Licensing Act 2003*

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

The Review Process paragraphs 11.1 – 11.11

Repetitious Representations paragraphs 11.12 – 11.15

Reviews arising in connection with crime paragraphs 11.24 – 11.28

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 Revised guidance issued under section 182 of the Licensing Act 2003

9 SUPPLEMENTARY INFORMATION

None at the time of publish.

10 APPENDICES

- A Application to vary a premises licence
- B Location map
- C Representations from Responsible Authorities
- i) Local Planning Authority
 - ii) Environmental Health
- D Representations from Local residents
- i) Amardeep & Jasvir Parmar
 - ii) Sue Wilks
 - iii) Ben Parker
 - iv) Philip & Mary Day
 - v) Carly Dron
 - vi) Susan Cope
 - vii) David & Anne Morgan
 - viii) Jeff Bullock
 - ix) Paul McMorrow
 - x) Mark Brown
- E Current Premises Licence & Plan