

Appendix C

Representations from Responsible Authorities

- i) **Local Planning Authority**

Delegated Report

APPLICATION NO: 23/00045/LIC

DATE OF APPLICATION: 16 January 2023

STATUTORY START DATE: 16 January 2023

SITE LOCATION

Tranquil Turtle, Symonds Green Lane, Stevenage

DEVELOPMENT

Major variation of premises licence.

AGENT

No Agent

APPLICANT

The Licensing Officer
Stevenage Borough Council
Daneshill House
Danestrete
Stevenage
Herts
SG1 1HN

WARD: Symonds Green
GREEN BELT: No
CONSERVATION AREA: Yes
LISTED BUILDING: No
TREE PRES. ORDER: No

SUMMARY OF RECOMMENDATION

Raise Objection.

APPLICATION SITE AND SURROUNDINGS

The application site comprises a public house operated by Tranquil Turtle set in a large plot with a large parking area, on the western side of the road, but set well back from the road. At the time of writing this report, it was undergoing refurbishment and was not open to the public. The site itself is located within the Symonds Green Conservation Area and lies opposite the Symonds Green Common.

PROPOSAL

The application seeks a Major Variation of premises licence. Details of the proposed variation are as follows:

- New fencing
- Temporary scaffolding, including cover over part of the external area

Further changes have been applied for by way of a minor variation as follows:

- reconfiguration of the external area to include the external servery
- fixed seating

- locations of fire equipment

In relation to the external bar the applicant has proposed to attach the following conditions:

- The external bar servery will only be used between the hours of 11.00 hours and 22.30 hours daily.
- The external bar servery will be supervised at all times when in use.
- The external bar servery will be inaccessible to customers when not in use to ensure they do not have access to any alcohol.

RELEVANT PLANNING HISTORY:

Reference number	Description	Date and outcome
01/00561/FP	Single storey side and rear extension	06.12.2001 PER
13/00272/AD	Installation of 1no externally illuminated totem sign, 1no externally illuminated fascia sign, 1no logo sign, 2no amenity signs, 3no welcome signs, 4no car park sign and 2no storm boards.	13.09.2013 ADGRAN
21/00653/FP	Removal of existing timber structure and replaced with new timber structure with 50% open walls, removal of existing smoking shelter located to the front of the building	29.07.2021 PER
21/01109/LIC	To change the layout and design of the premises in accordance with the submitted plan, drawing number BHB/BA/02. The change is a slight reduction in the bar servery To extend the supply of alcohol Sunday to Thursday until 00.00 (currently permitted until 23.00) and on Friday and Saturday until 01.00 (currently permitted until 00.00) To extend late night refreshment Sunday to Thursday until 00.00 (currently permitted until 23.30) and on Friday and Saturday until 01.00 (currently permitted until 00.00) To allow the premises to open 30 minutes following the end of licensable activity	19.10.2021 CLOSED

CONSULTATION & RESPONSES

Notices

No Site Notice Required.

No Press Notice Required.

Summary of consultation responses

Consulted:

Consultee	Date Consulted
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Responses:

Consultee	Comment
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Neighbour responses

In Support	Against	Comments	Neighbours Notified	Contributors Received
0	0	0	0	0

PLANNING POLICY CONTEXT

A revised National Planning Policy Framework (NPPF) was published in July 2021. This largely reordered the policy substance of the earlier 2012 version of the NPPF albeit with some revisions to policy. The Council are content that the policies in the Local Plan are in conformity with the revised NPPF and that the Local Plan should be considered up to date for the purpose of determining planning applications. The NPPF provides that proposals which accord with an up to date development plan should be approved without delay (para.11) and that where a planning application conflicts with an up to date development plan, permission should not usually be granted (para.12).

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan for Stevenage Borough Council comprises the following documents:

- The Stevenage Borough Council Local Plan 2011-2031 (adopted 2019)
- Hertfordshire Waste Development Framework 2012 and Hertfordshire Waste Site Allocations Development Plan Document (adopted 2012 and 2014); and
- Hertfordshire Minerals Local Plan 2002 – 2016 (adopted 2007).

Other Policies

Public Sector Equality Duty (PSED)

ASSESSMENT AND REASONED JUSTIFICATION

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that 'if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the development plan unless material consideration indicate otherwise'.

The proposal raises the following key issues:

- The prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

Comments

Following a review of the application submission, the Council as Local Planning Authority has no records of the Timber Gazebo / Bar area as outline in drawing number BHB/BA/02 Rev C (see outlined in the blue on the plan below). In addition, there are no records of planning permission being sought for the existing temporary scaffolding which is currently being utilised to cover the outdoor seating area (Shown green on the plan and in the photograph).

Given no permission has been granted for either the timber gazebo / bar area or the scaffolding structure, there is a breach in planning control in this instance. As a consequence of these unauthorised structure being in place, if the timber gazebo is to be used as an outdoor servery for the serving of alcohol in conjunction with the proposed outdoor fixed seating area which will be covered over by the scaffolding structure as detailed in the Licensing application, this could give rise to greater public nuisance to nearby residential properties within Symonds Green.

Given the above, the proposal would be in conflict with Policy FP7 of the Stevenage Borough Local Plan 2011-2031 (2019) whereby all development proposals should minimise, and where possible and for the purposes of this licence application noise pollution. The Council as Local Planning Authority is not confident suitable mitigation measures could be put in place to deal with such nuisance if it were to arise due to the level of complaints which have been received with respect to noise and disturbance currently experienced.

Conclusion

In summary, the construction of the timber gazebo / bar area and scaffolding structure will require planning permission which they not benefit from. Moreover, the use of the gazebo as a servery for the selling of alcohol in conjunction with the fixed outdoor seating area which is covered over by the scaffolding structure is likely to give rise to greater public nuisance to nearby residential properties. This would conflict with Policy FP7 of the Stevenage Borough Local Plan 2011 - 2031 (2019).

RECOMMENDATION

Object to variation of licence.

INFORMATIVES

1. This determination refers to the following plans:
 - Application form
 - Premises plan
 - Consent form

Case Officer Details: James Chettleburgh

Appendix C

Representations Responsible Authorities

ii) Environmental Health

Application to vary premises licence SBCL0136; Tranquil Turtle , Symonds Green Lane

I refer to the above applications and confirm that I wish to make a representation based on the grounds **Prevention of Public Nuisance** on behalf of the Environmental Health Team of Stevenage Borough Council, acting as a Responsible Authority.

Complaint History

Since April 2022, Environmental Health have received noise complaints from residents living in Symonds Green Lane, Scarborough Avenue, Eastbourne Avenue, Newlyn Close, Minehead Way, Yarmouth Road and Bude Crescent.

There were two incidents when multiple complaints were received from a number of residents on 8/8/2022 and 3/10/2022. The Noise App recordings that were submitted for the incidents on 7/8, 1/10 and 8/10 had very loud music, clearly audible. These recordings where the music is very loud, appear to have been taken outside, as other outside noises were noted such as road traffic noise, birdsong and the recordings affected by wind.

Whilst the initial complaint recordings taken from 7/8/22 were clearly very loud and affected the local neighbourhood, the determination of a statutory nuisance is made from the complainant's property and their living areas. The effect of the noise from the Tranquil Turtle was not witnessed and a nuisance was not determined. After these initial complaints were received, there were intervention visits by both Environmental Health and Licensing officers. The management put measures in place such as monitoring the boundary noise levels, ensuring the outside speakers faced away from the residential areas. Advice was also given to the management to consider a noise management plan for the premises so as to foresee and control the volume of escaping noise and to enclose the premises by way of an acoustic fence.

There was another multiple complaint event on Saturday 1/10/22. The management confirmed that both of these events (7/8 & 1/10) were private parties with the party organiser DJ bringing in their own equipment, including speakers, and the outside area was set up by the party organiser's DJ. Following this second incident, the management developed a Music & Event Agreement to be completed with the party organiser, which outlines the management's action should the sound system be deemed too loud.

The outside area was roofed using scaffolding at some point after Officer intervention on 10/8 and before 13/10/22.

A second meeting on 13/10 discussed the recent noise complaints and the premises confirmed that customers were moved inside at 23:00 and the premises closed at 01:30. The officer recommended that the premises develop a noise management plan for how they intend to provide music that does not affect the wider residential community. The premises were notified that monitoring will commence using noise equipment and officers.

Residents have continued to submit Noise App recordings up to 28/01/23. Most of these recordings have been taken outside as the outside environment can be heard such as road traffic noise. When assessing the noise complaints for nuisance we consider the noise that is experienced in the living areas of a home (bedroom and living room); during better weather, the outside garden area is also deemed a living space. As such, the recent Noise App recordings do not indicate the likelihood of a statutory nuisance being caused by the Tranquil Turtle. Other considerations involved in determining

a statutory nuisance include regularity, noise level, duration, time of day and the effect on the 'reasonable person'.

Although the majority of the Noise App recordings have been taken outside, the level of music noted on the recording has dropped significantly since the initial complaints.

Officer monitoring has also been underway. Attending on a non-event evening on 15/10/22 the officer noted that the outdoor area was in use, where drumbeats and occasional vocals could be heard from the officer's vehicle parked at the end of the driveway to the premises. The officer relocated to Symonds Green Lane between Moules House and Oakmead House and music was unable to be easily heard. A bass beat was heard, but this was hardly discernible. The overarching sound was from the traffic on the A1(M). The officer did not attend the Tranquil Turtle.

On 29/10/22 the Officer attended the Tranquil Turtle and monitored for noise nuisance.

- The Officer attended the premises and identified that during events, the premises also provide external entertainment in the beer garden area. This comprises of a DJ playing music and free-standing speakers being used. The Halloween event was underway inside the premises.
- Parking on the Green, the officer could hear music and the DJ, but not clearly. The music was coming from the external area of the premises. Moving to the corner of the Green, between Moules House and the Thatched Cottage, the officer could hear music and particularly the bass and drums. The song 'All Night Long' was able to be heard.
- At 20:40, the officer contacted a complainant who resides very close to the premises and discussed the ongoing sound affecting her. In that conversation, the complainant advised that she was enjoying T.V. and was not hearing the pub. She commented that 'they must know they are being monitored'. The officer requested that the complainant contact them if the sound increased.
- At 21:34, the officer contacted another complainant, whose home overlooks the Green. The complainant commented that there is a noticeable difference for noise levels tonight and can clearly identify when the doors are left open. The complainant commented that the premises were quiet because they were being monitored. The officer advised the complainant to return their call later in the evening should the sound get louder.
- At 22:57 the Officer was parked on the Green close to residential properties and was able to clearly hear a drum beat and bass beat travelling from the outdoor area. The officer met the Manager, Brad Kelly who was taking noise readings from the road on the Green.
- At 23:10 the Officer noted that smokers use the front door of the premises to access outside to smoke. It was noted that the volume level in the vicinity increases when the door is opened.
- The officer was unable to state that the noise levels witnessed escaping from the premises were excessive and were unlikely to amount to a statutory nuisance. The evening temperature was warm, enabling residents to use/access their outdoor space.

There is clearly some music still heard outside the resident's homes currently as the Noise App recordings indicate this.

Noise monitoring equipment was set up in a complainant's property from 16-28/11/22. Upon return, it was established that due to a fault, the equipment had not kept the recordings made by the complainant. The case officer has requested that the equipment be placed in the premises again. This has been declined and other complainants have been approached.

Comments

I am 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. In the Spring, Summer and Autumn, residents are more likely to have their windows open, enjoy their outdoor space and be adversely affected from noise from the Tranquil Turtle. I am concerned that the roof structure will enable the outdoor area to be used routinely as the premises' events can commence in all weathers. It is possible that a statutory nuisance may be realised.

Recommendations/proposed conditions to the Licence to prevent public nuisance

1. Provide additional acoustic attenuation to the outside seating area, such as a suitable acoustic fence, to reduce the sound generated from the amplified music, DJ commentary and from customers.
2. The Management of the premises must ensure that the double doors to the lobby to the main entrance to be kept closed during opening hours, when not in immediate use (not secured in the open position). If the existing ventilation system is unable to maintain a comfortable temperature during busy periods, consideration should be given to provision of air conditioning in the bar area (to prevent breakout of sound from noise generated within the building).
3. A noise management plan should be devised and be put into operation at the premises. This should document all of your measures to minimise the impact of noise affecting noise sensitive premises;
 - Boundary checks for audibility of music and use of the sound system
 - Control of noise in the car park
 - Requesting people to leave quietly
 - Ensuring that windows and doors are kept closed
 - The use of the garden area
 - Responding to direct neighbour complaints and
 - Any other actions that would assist in reducing the possibility of nuisance caused to the surrounding area.

Christine Walker-Wells
Commercial & Licensing Manager
8 February 2023