

Committee: Licensing and Environmental Health Committee

Date: 14 November 2022

Title: Application for a Premises Licence
Stone & Coal, Warwicks, White Roding, Dunmow,
CM6 1RU

Report Author: Karen James, Licensing Support Officer

Summary

1. The application before the panel today is for the grant of a Premises Licence for Stone and Coal. The application is dated 30 September 2022 and is made by New Horizon Events Co. This report sets out details of that application for the Premises Licence in respect of Warwicks, White Roding, Dunmow, CM6 1RU. Representations have been made in response to this application by: Richard & Phillipa Marriage, Chris & Judy Strong, Michael & Jeanette McNamara, Cllr Mark Lemon and Natalie North, as well as letters in support from Mr & Mrs Stavri, Sascha Chaston, Mr N Deakin, Nikki & Paul Flood, Mr Richard Connor and Gary Swaile. As a consequence of these responses the matter has been referred to the Committee for adjudication.
2. Warwicks is situated in the village of White Roding. Plans showing the layout and location of the premises are attached as Appendix B.
3. The options open to the Committee are set out by law, and are:
 - To grant the application
 - To modify the application by inserting conditions
 - To reject the whole or part of the application

Recommendations

4. The application is determined

Financial Implications

5. None

Background Papers

- A. Premises Licence Application (Appendix A)
- B. Plans of the Premises (Appendix B)
- C. Representations from Richard & Phillipa Marriage –White Roding (Appendix C)
- D. Representations from Michael & Jeanette McNamara –Leaden Roding (Appendix D)
- E. Representations from Chris & Judy Strong–White Roding (Appendix E)
- F. Representations from Cllr Mark Lemon– Cllr for Hatfield Heath (Appendix F)
- G. Representation from Natalie North - White Roding (Appendix G)
- H. Notice of support from Mr & Mrs Stavri –White Roding (Appendix H)
- I. Notice of support from Sascha Chaston –White Roding (Appendix I)
- J. Notice of support from Mr N Deakin –White Roding (Appendix J)

- K. Notice of support from Nikki & Paul Flood –White Roding (Appendix K)
- L. Notice of support Mr Richard Connor – Hatfield Heath (Appendix L)
- M. Notice of support from Mr Gary Swaile –Sheering (Appendix M)
- N. No Objection from the Police but requesting standard conditions imposed. (Appendix N)
- O. Responses from Planning and Environmental Health & Protection Teams (Appendix O)
- P. Uttlesford District Council Statement of Licensing Act 2003 Policy 2017 –22 (Appendix P)

Impact

Communication/Consultation	Details of the application was conveyed to all relevant responsible authorities. A blue public notice was displayed on the premises for the required timeframe and a public notice was placed in a local publication circulated within the area of the premises.
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	Under Article 1 First Protocol to the European Convention on Human Rights everyone is entitled to peaceful enjoyment of their possessions which includes property. This right may be interfered with if necessary to control the use of property in accordance with the general interest. The imposition of conditions under the Licensing Act 2003 is a legitimate interference with this right in this context. In the event that an applicant, responsible authority or interested party is dissatisfied with the decision of the committee there is a right of appeal to the Magistrates Court
Sustainability	None
Ward-specific impacts	'The Rodings' being the ward within which the premises are situated
Workforce/Workplace	None

Situation

6. This premises is in the grounds of a residential home. The applicants are trading as café during the day and an outdoor restaurant during the evening. 7 previous events involving the sale of alcohol have been covered by Temporary Event Notices, which have all passed without incident or any direct complaint to either the Police or Environmental Health at the time. The applicant would also like to be able to facilitate occasional private events, and any additional licensing activities/times required, will be covered by application of a Temporary Event Notice. The premises will be open from 08:00 every day till the evening 7 days a week. The premises is situated in the

rural village of White Roding, Dunmow. There are no immediate residential properties bordering the restaurant site, though there are other residential premises in the vicinity. The proposed licensable activities and times can be read on page 5 of the application form. (Appendix A). At the end of the consultation period the applicant offered the opportunity for a mediation meeting to those individuals opposing his application, to try and resolve some of the issues raised. This offer was rejected in writing by Mr & Mrs McNamara, Mr & Mrs Strong and accepted by Mr & Mrs Marriage only on the condition that planning permission had already been granted.

7. The proposed licensable activities are below:
 - i. Recorded Music
 - ii. Late night Refreshment
 - iii. Supply of Alcohol
8. Copies of this application have been served on all the statutory bodies and this did attract correspondence from Essex Police based on the Crime and Disorder and Protecting Children from Harm objectives. An agreement was reached to add conditions (Appendix L) and comments from Uttlesford Planning and Environmental Health (Appendix O)
9. The statutory notices attracted representations listed in the background papers.
10. In carrying out its statutory function, the Licensing Authority must promote the licensing objectives as set out in the Licensing Act 2003. These are:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
11. There is no hierarchy of importance among the objectives, and all must be given equal weight.
12. The decisions that the Committee can make in respect of this application are to:
 - Grant the application
 - Modify the application by inserting conditions
 - Reject the whole or part of the application
13. When determining an application, due regard should be given to the Council's Licensing Policy and the Secretary of State's Guidance issued in accordance with the 2003 Act.
14. The Secretary of State's Guidance provides at paragraphs 10.8 and 10.10 the following assistance for members:
 - 10.8 "The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more

of the four licensing objectives. In order to promote the crime prevention licensing objective conditions must be included that are aimed at preventing illegal working in licensed premises.”

10.10 “The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions.”

15. If the Committee’s decision is to impose conditions, the only conditions that can be imposed are those that are necessary and proportionate to promote the licensing objective relevant to the representations received. Furthermore, the Committee should not impose conditions that duplicate the effect of existing legislation.

Risk	Likelihood	Impact	Mitigating Actions
1 Either no conditions are attached to the licence, or the conditions do not satisfactorily achieve the licensing objectives the prevention of public nuisance	2 There is a possibility that local residents will suffer from public nuisance even if what appears to be appropriate conditions are imposed.	2 Due to the availability of the review procedure and inconvenience which may be suffered by local residents would be relatively short lived.	In light of the objections received to this application members should consider if this meets the licensing objectives

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.