

## **APPLICATION OF A NEW PREMISES LICENCE**

REPORT OF: Tom Clark, Head of Regulatory Services

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Wards Affected: Crawley Down

Key Decision: No

Report To: Liquor Licensing Panel

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### **Purpose of Report**

- 1 To provide information in order that the Licensing Committee can determine an application for a Premises Licence.

### **Summary**

- 2 An application, pursuant to Section 17 Licensing Act 2003, has been made by AYM Catering Ltd, The Carriage, 12 Old Station Close, Crawley Down, Crawley, West Sussex RH10 4TX. The Environmental Health Team, a Responsible Authority and three residents have submitted representations objecting to the application on the grounds of public nuisance.
  - 3 The Committee is asked to determine the application in accordance with the Licensing Act 2003, MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations.
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### **Background**

- 4 The Carriage Restaurant is an existing business and is currently trading from 12 Old Station Close, Crawley Down. The premises were originally issued with a Premises Licence on 7<sup>th</sup> October 2020. The current Premises Licence is only applicable in respect of the actual building at 12 Old Station Close.
- 5 Since the grant of the existing Premises Licence the owners of The Carriage have taken possession of the neighbouring adjacent property at 6 Station Road. This property was previously an Estate Agents. The building is now known as 'The Front Carriage'. The new premises additionally includes an outside forecourt area to the front of this property. This area forms part of the private property rather than the highway.
- 6 During the Covid19 restrictions the applicant has been using the forecourt area to the front of 6 Station Road in order to continue trading. His current licence only allows off sales to this area to be made in sealed containers. The applicant now wishes to increase the current licensable area to include the property at 6 Station Road and the forecourt area to the front of this property. The applicant has submitted this application for a new Premises Licence as the licensable area is to be substantially increased.

- 7 The current Premises Licence allows the following activities:

<b>Sale by retail of alcohol</b>	Everyday 12:00 - 22:00
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The current opening hours of the Premises are **Everyday** 07:30 - 22:30

- 8 The applicant seeks the following licensable activities and timings:

<b>Sale by retail of alcohol</b>	Sunday to Thursday 12:00 – 22:00 Friday and Saturday 12:00 – 23:00 Bank Holidays 12:00-23:00
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The opening hours in the application are stated as:

Sunday to Thursday 07:30 – 22:30

Friday and Saturday 07:30 – 23:30

Bank Holidays 07:30 – 23:30

- 9 The application was correctly advertised at the site between 13<sup>th</sup> July 2021 and 10<sup>th</sup> August 2021 and in the East Grinstead Courier on 16<sup>th</sup> July 2021.
- 10 The Carriage has been subject of a number of complaints to the Planning Department and the Environmental Protection Team since it opened in October 2021. The majority of these complaints surround odour and other issues from the premises which concern Planning and are not relevant to this application and a separate Planning application has been submitted in respect of the premises. There have been complaints of excessive noise in the late evenings from the premises which have been dealt with by the Environmental Protection Team.
- 11 There have been complaints of the current premises being open past the permitted hours until 23:00 hours and these have been highlighted to the Premises Licence Holder, Mr Mevlit who stated that this was a staff misunderstanding of the closing time which has been resolved.
- 12 There have been a total of four representations received in respect of this application. One is from a Responsible Authority, Mid Sussex Environmental Protection Team and three from nearby residents. The details of these representations are appended to the report.
- 13 The Committee should be aware when reading the representations from the members of public that some of the information contained therein is irrelevant for the purposes of the Licensing Act 2003. They are the comments relating to Car Parking and people driving to the location.
- 14 The police did initially raise a representation, but this has been satisfied by the agreement of both parties to a number conditions to be attached to the licence.

- 15 The main points raised in the representations that are relevant relate to the licensing objective of Public Nuisance. They refer to concerns regarding the timings in respect of the use of the outside forecourt area and excessive noise from this use.
- 16 The Committee must focus on these parts only and disregard the irrelevant matters when determining this application.
- 17 Should the Committee grant the licence I respectfully request that a number of conditions detailed in the appendices to this report be included to take into account the matters mentioned in paragraphs 14 and 15.

## Representations

- 18 Four representations have been received in respect of the application which are summarised:
  - Environmental Protection Team – This Responsible Authority have raised representations in respect of the Licensing Objective of the prevention of Public Nuisance. They have stated to the applicant that given the sensitivity of this location and the proximity of residential dwellings they have concerns that there is the potential for public nuisance due to break out noise from the premises and noise generated by customers congregating outside. They further stated that the business has been in operation for several months, and the Council have received complaints alleging disturbance caused by loud music being played, noise from customers and due to The Carriage bar being open later than permitted.

They suggested a number of Licence conditions that would satisfy the representations which included that the outside seating area to The Front Carriage would not be used by customers to consume food or drink after 21:30 hours Monday to Sunday. This was not acceptable to the applicant.

- Mrs Lindsay Williams has made a representation on the grounds of Public Nuisance. She lives nearby in Grange Road. She has *stated since the ability to open and use outdoor space was allowed, the use of these outside premises has meant regular noise from customers, often late into the evening and people tend to hang around the area in or near parked cars even after closing. It is regularly impossible to sit outside in the evening without being disturbed by this noise. During the day, music is sometimes played which can be heard widely. She further states 'an extension in licensing hours - and the current application for planning - will only serve to make these matters worse. Last orders at 11.00 on Friday, Saturday and Bank Holidays still means that people will be drinking right up to closing at 11.30 and the area will probably not be clear until midnight.'*
- Mrs Chrysoula Bailey has made a representation on the ground of public nuisance. She lives in Old Station Close and has stated, *I wish to make a representation on the grounds of public nuisance because of the use of an outside area till at least 11.30 pm. As the current licensing hours are already a nuisance because of the noise from inebriated customers shouting to each other on the premises and slamming car doors when they leave, but also the door of the premises being slammed shut, I fear and anticipate more of this*

*unsocial behaviour. We are older people and go to bed at 10 pm. We don't want to be woken up at 11.30 then lie awake for hours trying to get back to sleep. I have similar issues on the grounds of crime and disorder as there have been instances of rowdy behaviour and drunkenness in the past which have been reported to the council. Also instances of current licensing hours being exceeded which I have also witnessed. I have seen and endured many instances of the regulations and guidelines not being adhered to, that I have no confidence whatsoever that any new licensing hours will be adhered to.*

- Mr Gary Rice has made a representation on the grounds of public nuisance. He also resides in Old Station Close. He has stated, *'the proposed closing time of 23:30 on Friday nights, Saturday nights and bank holidays would cause a considerable amount of noise emanating from the establishment especially in the warm weather when the outside areas are in use and we have our windows open. Having people gathered outside number 12 Old Station Close (a cocktail bar) gone 22:00 every Friday and Saturday night just isn't taking into account the nearby residents home lives, when did the last cocktail bar open in a residential close? The current hours of operation are already causing us a considerable amount of stress, the establishment is rarely closed at 22:30 on Thursdays, Fridays and Saturdays. We are currently suffering from noise of cars/taxi coming and going, drunken noise of customers when they are `on or off the premises` this will only get worse and drag into the early hours of the morning if the new license gets approved.'*

The full representations are appended to the report

## **Policy Context**

### 19 Determination of Application for a Premises Licence

The Committee must determine the application in accordance with the Licensing Act 2003 (LA03), MSDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations.

### 20 Section 18 LA03 deals with the determination of the application:

Grant of premises licence

18. Determination of application for premises licence

(1) This section applies where the relevant licensing authority—

(a) receives an application for a premises licence made in accordance with section 17, and

(b) is satisfied that the applicant has complied with any requirement imposed on him under subsection (5) of that section.

(2) Subject to subsection (3), the authority must grant the licence in accordance with the application subject only to—

(a) such conditions as are consistent with the operating schedule accompanying the application, and

(b) any conditions which must under section 19, 20 or 21 be included in the licence.

(3) Where relevant representations are made, the authority must—

(a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and

(b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.

(4) The steps are—

(a) to grant the licence subject to—

(i) the conditions mentioned in subsection (2)(a) modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and

(ii) any condition which must under section 19, 20 or 21 be included in the licence;

(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;

(c) to refuse to specify a person in the licence as the premises supervisor;

(d) to reject the application.

(5) For the purposes of subsection (4)(a)(i) the conditions mentioned in subsection (2)(a) are modified if any of them is altered or omitted or any new condition is added.

(6) For the purposes of this section, “relevant representations” means representations which—

(a) are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives,

(b) meet the requirements of subsection (7),

(c) if they relate to the identity of the person named in the application as the proposed premises supervisor, meet the requirements of subsection (9), and

(d) are not excluded representations by virtue of section 32 (restriction on making representations following issue of provisional statement).

(7) The requirements of this subsection are—

(a) that the representations were made by a responsible authority or other person within the period prescribed under section 17(5)(c),

- (b) that they have not been withdrawn, and
- (c) in the case of representations made by a person who is not a responsible authority, that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

21 **Relevant Representations**

The Licensing Act 2003 requires representations to address the four licensing Objectives which are

1. Prevention of Crime and Disorder
2. Promotion of Public Safety
3. Prevention of Public Nuisance
4. Prevention of Harm to children and young persons

- 22 A representation is a 'relevant representation' if it is about the likely effect of the grant of the licence on the promotion of the licensing objectives. The objector must establish that such a consequence is a *likely* effect of a grant - (ie more probable than not)

**Other Options Considered**

- 23 In order to lawfully provide licensable activities as applied for, they must be conducted under the authority of a Premises Licence.

**Financial Implications**

- 24 The final decision made by the Committee in this matter is subject to appeal in the Magistrates Court by any party to the proceedings.

**Other Material Implications**

- 25 Section 136 Licensing Act 2003 – A person commits an offence if he carries on or attempts to carry a licensable activity on or from any premises otherwise than under and in accordance with an authorisation or he knowingly allows a licensable activity to be so carried on.
- 26 A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine or both.

**Sustainability Implications**

- 27 None.

**Background Papers**

Appendix 1 – Application Form and plan of premises  
Appendix 2 – Map of area  
Appendix 3 – Photos of location

**Representations**

Appendix 4 – Representation from Environmental Protection  
Appendix 5 – Representation from Mrs Williams  
Appendix 6 - Representation from Mrs Bailey  
Appendix 7 - Representation from Mr Rice

**Other Documents**

Appendix 8 – Schedule of proposed conditions