

Licensing Sub-Committee	
Meeting Date	12 th October 2021
Report Title	Consideration of an application for the grant of a new premises licence under the Licensing Act 2003
Premises	Christine House, London Road, Rainham, Kent ME8 8PT
Head of Service	Charlotte Hudson, Head of Housing, Economy and Community Services
Line Manager	Della Fackrell, Resilience and Licensing Manager
Lead Officer	Christina Hills, Licensing Officer
Classification	Open
Recommendations	1. Members are requested to determine the application on its merits

1 Purpose of Report and Executive Summary

- 1.1 The report advises Members of an application for a premises licence to be granted under the Licensing Act 2003 in respect of which representations have been made by two (2) interested parties.

2 Background

- 2.1 The Licensing Sub-Committee is asked to determine an application for the grant of a new premises licence under the Licensing Act 2003 in respect of premises at Christine House, London Road, Rainham, Kent ME8 8PT
- 2.2 The Licensing Act 2003 (the 2003 Act) requires the Council (as licensing authority) to carry out its various functions so as to promote the following four licensing objectives:
- the prevention of crime and disorder
 - the protection of public safety
 - the prevention of public nuisance
 - the protection of children from harm
- 2.3 The 2003 Act requires the council to publish a 'Statement of Licensing Policy' that sets out the policies the council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The council first adopted its Statement of Licensing Policy in 2004 and it has been regularly reviewed in line with legislative requirements ever since. The latest policy was adopted on 1 April 2021. The Policy will be available at the meeting for

reference purposes and is also available to view at <https://swale.gov.uk/news-and-your-council/strategies-and-policies/statement-of-licensing-policy>

- 2.4 Under the 2003 Act, licensing authorities must, in carrying out their functions, have regard to guidance issued by the Secretary of State under section 182. The Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Provided that the licensing authority has properly understood and considered the Guidance, it may depart from it when it has reason to do so. However, as the licensing authority is under a duty to have regard to the Guidance, it will need to give full reasons for any departure from it. This would be a key consideration for the courts should departure from the Guidance result in a determination which gives right to an appeal or judicial review. The Guidance will be available at the meeting for reference purposes and is available to view at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003__April_2018_.pdf
- 2.5 A copy of the council's approved procedure for hearings of the Licensing Sub-Committee in relation to an application, along with a copy of the Hearings Regulations has been circulated to all parties prior to the meeting and is attached as **Appendix VI** to this report.
- 2.6 The Licensing Authority must, under the Act, refer any application for hearing to the Licensing Sub-Committee where relevant representations are made by a responsible authority or an interested party.
- 2.7 The Licensing Sub-Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property which may include licences in existence and the protection of private and family life.

3 The Application

3.1 On 11 June 2021 an application was received from Christine Adeosun of Solid Rock Holding Ltd for the grant of a premises licence under section 17 of the Licensing Act 2003.

3.2 The application is for:

Plays (Indoors)– Monday to Sunday	08:00 – 21:00
Films (Indoors) – Monday to Sunday	08:00 – 24:00
Live Music (Indoors) – Monday to Sunday	08:00 – 03:00
Recorded Music (Indoors and Outdoors) – Monday to Sunday	08:00 – 03:00
Performance of Dance (Indoors) - Monday to Sunday	09:00 – 03:00
Late Night Refreshment (Indoors)– Monday to Sunday	23:00 – 03:00
Supply of Alcohol (On the premises) – Monday to Sunday	08:00 – 03:00

- 3.3 Part M of the statutory application form asks applicants to describe the steps they intend to take to promote the four licensing objectives. Where an application has been properly made and no responsible authority or other person has made a relevant representations, or where representations are made and subsequently withdrawn, these proposals are 'converted' in the form of clear and enforceable licence conditions which, together with the Mandatory Conditions, make up the premises licence.
- 3.4 A copy of the application is shown as **Appendix I**. A copy of the plans for the premises are shown at **Appendix II**

4 Representations

- 4.1 At any stage during the 28 day consultation period a responsible authority, a Councillor or an interested party, may make representations provided that the grounds are relevant to the licensing objectives and are not deemed to be vexatious, frivolous or repetitive.
- 4.2 Representations from responsible authorities:
- Kent and Medway Fire and Rescue Service – No representations
 - Kent County Council Trading Standards – No representations
 - Kent County Council Services Children and Families – No representations
 - Kent County Council Public Health – No representations
 - Environmental Health, Swale BC – Have made no representations however, they seek the attachment of the following condition to assist in the promotion of the licensing objectives:

“A Noise Management Plan shall be submitted for approval by the Licensing Authority. The requirements and specification of the approved Noise Management Plan shall be fully implemented during the normal operational hours of the premises”

It is confirmed that a Noise Management Plan has been submitted by the applicant to the satisfaction of the Environmental Health Officer. This plan is attached as **Appendix III**. The applicant has agreed to this condition being incorporated into the application.

- Kent Police – Have made no representations however, they seek the attachment of conditions to assist in the promotion of the licensing objectives. These conditions are shown as **Appendix IV**. The applicant has agreed to these additional conditions being incorporated into the application. This

includes all licensable activities at the premises having an end time of 01:00 on each day.

- 4.3 There have been two (2) representations received from interested parties which consist of one from a member of the public and one from Hartlip Parish Council. The representations are made on the basis of the 3 licensing objectives of prevention of crime and disorder, promotion of public safety and prevention of public nuisance. These are shown at **Appendix V**.

5 Policy considerations

The following provisions of the Secretary of State's Guidance apply to this application:

Chapter 2 – The licensing objectives

Chapter 8 – Applications for premises licences

Chapter 9 – Determining applications

Chapter 10 – Conditions attached to Premises Licences

The following paragraphs of the Council's Statement of Licensing Policy apply to this application:

Sections 2 and 3 – These sections set out the four licensing objectives and identify matters that may be relevant to the promotion of each licensing objective as well as the Council's approach with regard to licensing and details other mechanisms to deal with potential problems.

6 Determining the application – Options of the Sub-Committee

- 5.1 Members are asked to determine which of the following options they deem appropriate:
- (i) grant a licence as applied for
 - (i) grant a licence subject to conditions consistent with the Operating Schedule, modified to such an extent as considered appropriate for the promotion of the licensing objectives and any mandatory conditions
 - (ii) grant a licence but excluding any of the licensable activities applied for
 - (iii) grant a licence but refuse to specify a designated premises supervisor

(iv) reject the application

5.2 Members of the Licensing Sub-Committee are reminded of their duty under Section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Licensing Authority's responsibility to co-operate in the reduction of crime and disorder in the Borough.

6 Implications

Issue	Implications
Corporate Plan	A community to be proud of: by promoting the four licensing objectives the authority is enriching and enhancing the community whilst maintaining its regulatory and enforcement role.
Financial, Resource and Property	None unless there is an appeal to Magistrates' Court which proves to be successful and which could therefore result in costs being awarded against the Council.
Legal, Statutory and Procurement	<p>The Licensing Sub-Committee has to decide on the outcome of the application under the Licensing Act 2003 and relevant Regulations, having regard to statutory guidance under s182 of the Act and taking into account the four licensing objectives,</p> <p>In accordance with the Act, if a licensing authority rejects in whole or in part, an application to grant a premises licence the applicant may appeal against the decision, to a Magistrates' Court within 21 days of being notified of the decision.</p> <p>Similarly, where a person who made relevant representations in relation to the application contends that the licence ought not to have been granted or that different or additional conditions should have been imposed on the licence; they may appeal against the decision, to a Magistrates' Court within 21 days of being notified of the decisions</p>
Crime and Disorder	The council has a duty under section 17 of the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the Licensing Authority's responsibility to co-operate in the reduction of crime and disorder in the Borough.
Environment and Climate/Ecological Emergency	No implications
Health and Wellbeing	No implications

Safeguarding of Children, Young People and Vulnerable Adults	The licensing objective of 'Protection of children from harm' is addressed within the application and is implicit in the decision making process for licence applications
Risk Management and Health and Safety	Departure from the Guidance and Statement of Licensing Policy could lead to an increased risk of appeal. Similarly, if any decision made is not evidence based and proportionate
Equality and Diversity	No implications
Privacy and Data Protection	Normal privacy and data protection rules apply.

6 Appendices

6.1 The following documents are to be published with this report and form part of the report:

- **Appendix I:** Application form
- **Appendix II:** Plan of premises
- **Appendix III:** Noise Management Plan
- **Appendix IV:** Police requested conditions to be added to a granted licence
- **Appendix V:** Representations
- **Appendix VI:** Order of proceedings

7 Background Papers

The Licensing Act 2003
Guidance issued under Section 182 of the Licensing Act 2003 (as amended)
Swale BC Statement of Licensing Policy