

# Somerset West and Taunton Council

## Licensing sub-committee – 15<sup>th</sup> of April 2021

### Application for the grant of a Premises Licence under the Licensing Act 2003

This matter is the responsibility of Cllr Sarah Wakefield

Report Author: Nicola Yendall & Brad Fear – Licensing Officers

#### 1 Executive Summary / Purpose of the Report

- 1.1 Members are asked to consider an application to vary a Premises Licence under the Licensing Act 2003 for Croydon Hall, Felons Oak, Rodhuish, Somerset TA24 6QT.

#### 2 Recommendations

- 2.1 As relevant representations have been received by the licensing authority, the subcommittee must take such steps as it considers appropriate for the promotion of the four licensing objectives, being:
  - The prevention of crime and disorder;
  - The prevention of public nuisance;
  - Public safety;
  - The protection of children from harm.
- 2.2 The steps the sub-committee may take are to:
  - Grant the licence subject to the conditions identified in the applicant's operating schedule (modified to such extent as the authority considers appropriate for the promotion of the licensing objectives) and any appropriate mandatory conditions.
  - Exclude from the scope of the licence any of the licensable activities to which the application relates.
  - to refuse to specify a person in the licence as the designated premises supervisor;
  - Reject the application.

#### 3 Risk Assessment (if appropriate)

- 3.1 The matters to which this report relates does not impact on any of the issues identified within the Corporate and Function Risk Registers.

#### 4 Background and Full details of the Report

- 4.1 Croydon Hall is a small Country Estate Hotel, situated within 5 acres. It is situated within Exmoor National Park. The hotel can entertain up to 250 guests and can provide accommodation for up to 50 guests.
- 4.2 The premises is currently licensed and a copy of this licence can be found as **Appendix A**.
- 4.3 An application was received from Round the Clock Ltd on 4<sup>th</sup> February 2021 to Vary the Premises License at Croydon Hall, Felons Oak, Rodhuish, Minehead. The application has been submitted to update and simplify the existing licensing conditions with the proposed future operations as a hotel with ancillary functions such as wedding receptions and food and beverage on offer to non-residents.
- 4.4 The application has been received to supply of alcohol for both the consumption on and off the premises, from 07:00 to 2:00 and no time limit for Hotel Residents, the supply to Hotel Residents will be 24/7. Late night refreshments indoors from 23:00 to 07:00. Other Licensable activities applied for Plays, Films, Live Music, Recorded Music and Dance both indoors and outdoors from 07:00 to 02:00 indoors and 07:00 to 11:00 outdoors.
- 4.5 Seasonal variations for all the licensable activities applied for on New Year's Eve from the end of permitted hours to the start of permitted hours on the following day. When British Summertime changes extend the terminal hour by 1 hour.
- 4.6 Notices advertising the Licence were placed up at the premises and a copy of this was also advertised in the local paper, within 10 working days in accordance with the Licensing Act 2003 (Premises licences and club Premises certificates) Regulations 2005. A copy of this notice was also posted on the Somerset West and Taunton Council Website, with a function available for members or the public to make objections online through the website.
- 4.7 The proposed licensable activities and timings, as per the original application are represented in table form in **Appendix B**. Hoping to address any local concerns, Mr Mullins then updated his original application on 5<sup>th</sup> February 2021 with updated conditions as per **Appendix C**, following conversations with local residents and the feedback he received.
- 4.8 Within the application, the applicant has identified steps they intend to take promoting the licensing objective, and this is often referred to as being part of the 'operating schedule'. The licensing authority routinely modifies the content of this part of the application in order to form conditions of the licence, should it be amended; conditions which, if breached, result in an offence being committed. In this case the applicant has spoken to the local Police Licensing Officer Nicola Cooper to discuss the proposed operation moving forward as a Hotel and it was felt that some of existing licence conditions needed updating and others were unenforceable (again, these proposed condition amendments can be found under **Appendix B**).

#### Representations

- 4.9 Representations against the application have been received from interested parties within the 28-day consultation period. These are shown in **Appendix D**. (Please note that as the representation from Mr and Mrs Chavasse was received by Licensing on 5<sup>th</sup> March 2021, it was originally determined that this was served out of time and, therefore,

invalid. However, on 16<sup>th</sup> March 2021 Mr and Mrs Chavasse were able to evidence that the representation was formally served on the Council—via the Enquiries inbox—on the evening of the 4<sup>th</sup> March, thereby making it within the acceptable time frame. This second objection can be found under **Appendix F**. Due to this misunderstanding, and also taking into consideration technical problems that the objectors experienced when trying to view the application online, it was proposed that the original hearing be adjourned—under Article 12 of the Licensing Act 2003 (Hearings) Regulations 2005—to a later date to allow these points to also be addressed). Under this article a hearing may be adjourned “*where it considers this to be necessary for its consideration of any representations or notice made by a party*”.

The main areas of concern are the possibility of public nuisance/disturbance to neighbours in the residential area if the Licencing hours are increased—particularly if and when patrons leave simultaneously late at night. Note that in her response to the original notice of hearing (for the hearing initially booked for Thursday 25<sup>th</sup> March— and subsequently adjourned) Mrs Rainbow elaborated on her concerns and this response is attached as **Appendix G**.

Both Mrs Rainbow and Mrs & Mr Chavasse are local residents—located under half a mile away from Croydon Hall, beyond fields adjacent to the back gardens of Croydon Hall.

#### Representations from Responsible Authorities

4.10 No formal objections/representations were raised by responsible authorities during the 28 day consultation period.

#### 4.11 Mediation

A mediation meeting originally booked online over Zoom for Friday 12<sup>th</sup> March 2021. However, this ultimately did not take place when the original objector, Mrs Rainbow was unable to attend. However, letters were sent by the applicant to both Mrs Rainbow and, subsequently, to Mr and Mrs Chavasse, summarising his intentions for the property as well as constructive conditions he has proposed to address any potential concerns. Mr Millins included his contact details within these letters, intending to open up dialogue with the objectors and discuss any concerns they had accordingly. The letter to Mrs Rainbow can be found under **Appendix E** and the letter to Mr and Mrs Chavasse can be viewed as **Appendix H**. A second formal mediation meeting over Zoom was booked Wednesday 31<sup>st</sup> March 2021 (with Mr and Mrs

Chavasse also invited this time). Regrettably, whilst the applicant, Mr Millins, attended at this time, neither of the objectors did. As such, formal mediation was unable to proceed. However, Mr Millins had confirmed having a phone discussion with Mr and Mrs Chavasse following receipt of the letter he sent them (to discuss their concerns), however no further suggestions were given at the time by Mr and Mrs Chavasse on any additional conditions or amendments they would want to see implemented.

#### Responses to notice of hearing

4.12 Notices of hearing were sent out by e-mail and by post on 22<sup>nd</sup> March 2021 (these notices of hearing also included a covering letter explaining the reasons for the adjournment of the initial hearing under Article 12 of the Licensing Act 2003 (Hearings) Regulations 2005). The responses we have received to this notice of hearing are shown as **Appendix I**. Please note that at the time of writing there still remains two days in which parties can confirm attendance at the hearing. Any further confirmations

of attendance or written submissions offered after the submission of this report will therefore be forwarded separately.

#### Relevant Licensing Policy considerations

- 4.13 Section 1.2 of the Authority's Licensing Policy states: "The Act requires the Licensing Authority to carry out its various licensing functions so as to promote the four licensing objectives". "These four objectives will be the paramount considerations when determining a course of action in relation to the Licensing Authority's licensing functions. Each objective will be given equal importance". The four objectives are: the prevention of crime and disorder, public safety, prevention of children from harm and prevention of public nuisance.

#### Conditions

- 4.14 Section 1.5.2 of the Policy states "The Licensing Authority may only impose conditions on a premises licence if they are consistent with the operating schedule or after receiving relevant representations. Any conditions attached to the licence must relate to the promotion of the Licensing Objectives".
- 4.15 The Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned.
- 4.16 The guidance issued under Section 182 of the Licensing Act 2003 states: *"(9.38) All licensing determinations should be considered on a case by case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be. (9.39) The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. (9.40) Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters."*

### **5 Links to Corporate Aims / Priorities**

- 5.1 The granting of this application would support an existing business within the district, creating additional sources of income. However, considerations must also be made, where necessary, to the Corporate Strategy's commitment to – where the granting of varying of any premises licence is concerned – 'reduce anti-social behaviour, through working with residents'. **6 Finance / Resource Implications**

- 6.1 None.

### **7 Legal Implications**

- 7.1 The Licensing Sub Committee, when determining this application, must comply with the Licensing Act 2003. It should also have due regard to the Home Office Guidance and the Council's Licensing Policy.

- 7.2 In determining an application for a Premises Licence, any Responsible Authority or other party can make representations in relation to the application.
- 7.3 The Licensing Act 2003 created four licensing objectives and in determining this application, only factors that relate to the licensing objectives can be taken into account. Any representation must relate to the licensing objectives and any conditions added by the Licensing Sub Committee must relate to the promotion of the licensing objectives.

#### Human Rights Act 1998

- 7.4 The sub-committee must also have regard to the provisions of the Human Rights Act 1998 when determining this application. The 1998 Act made the European Convention of Human Rights directly enforceable in British courts. The relevant provisions are Article 6 (right to a fair trial), Article 8 (right to respect for private and family life), Article 11 (freedom of association) and Article 1 of the First Protocol (right to peaceful enjoyment of one's possessions). These provisions require the subcommittee to identify correctly the competing interests, give each appropriate weight in the circumstances of the case, and balance them against each other in order to arrive at a fair and reasonable decision.

#### Appeals

- 7.5 If the sub-committee modifies conditions or rejects the application, the applicant may appeal within 21 days of notification of the decision to the Magistrates' Court. Those making relevant representations may appeal if they believe that the licence should not have been granted, or that, when granting the licence, the Licensing Authority ought to have imposed different or additional conditions or excluded a licensable activity. The Magistrates' Court may dismiss the appeal, or substitute its own decision, or send back the case to the Licensing Authority with directions as to how the case is to be dealt with. The Magistrates' Court may make any costs order it thinks fit.

### **8 Environmental Impact Implications (if any)**

- 8.1 None identified

### **9 Safeguarding and/or Community Safety Implications (if any)**

- 9.1 None identified.

### **10 Equality and Diversity Implications (if any)**

- 10.1 None identified.

### **11 Social Value Implications (if any)**

- 12 No social value implications were identified.

### **13 Partnership Implications (if any)**

- 14 No partnership implications were identified.

### **15 Health and Wellbeing Implications (if any)**

15.1 Through effective regulation, confidence in licensed premises and activities can be maintained, helping communities to thrive.

**16 Asset Management Implications** (if any)

16.1 No asset management implications have been identified.

**17 Consultation Implications** (if any)

17.1 None identified.

**18 Scrutiny Comments / Recommendation(s)** (if any)

18.1 Not applicable.

**Democratic Path:**

- **Scrutiny / Corporate Governance or Audit Committees – No**
- **Cabinet/Executive – No**
- **Full Council – No**

Reporting Frequency :  **Once only**     **Ad-hoc**     **Quarterly**  
 **Twice-yearly**     **Annually**

**List of Appendices**

Appendix A	Copy of existing licence for Croydon Hall
Appendix B	Activities and hours applied for (including proposed conditions to be added to licence)
Appendix C	Updated conditions provided by Mr Millins following discussions with residents
Appendix D	Objection from Mrs Rainbow
Appendix E	Letter to Mrs Rainbow from Mr Millins
Appendix F	Objection from Mr and Mrs Chavasse
Appendix G	Letter from Mrs Rainbow – elaboration of concerns
Appendix H	Letter to the Chavasses from Mr Millins
Appendix I	Responses to Notice of Hearing

**Contact Officers**

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