

WELWYN HATFIELD COUNCIL  
LICENSING ALCOHOL AND REGULATED ENTERTAINMENT SUB COMMITTEE  
REPORT OF THE LICENSING OFFICER

Welwyn East

REPORT TO ALCOHOL AND REGULATED ENTERTAINMENT SUB COMMITTEE

**VARIATION OF A PREMISES LICENCE FOR RODI RESTAURANT, 1 CHURCH STREET, WELWYN, AL6 9LN.**

**1 Summary of the Application**

<b>Premises Licence Holder(s)</b>
ALTIN REXHO
<b>Address of Premises</b>
1 CHURCH STREET, WELWYN, AL6 9LN

This committee report contains an application for the variation of an existing premises licence for Rodi Restaurant, 1 Church Street, Welwyn, AL6 9LN. The application is contained in Appendix A to this report. The existing premises licence can be found in Appendix B to this report.

**Summary of Application Received**

An application has been received from Safeline Training and Consultancy on behalf of the premises licence holder Mr Altin Rexho under the Licensing Act 2003 for a variation to the premises licence. The variation is to extend the licensable area to include the premises garden area (maximum seating capacity of 50 persons) and a small front forecourt area (maximum seating capacity of 8 persons). The sale/supply of alcohol at the premises would remain as currently permitted Monday – Sunday 10:00 – 22:30. The variation application is seeking to permit the sale/supply of alcohol for customers in the proposed outdoor areas Monday – Sunday 10:00 – 21:30 with the outdoor areas being open to customers Monday – Sunday 09:00 – 22:00.

The applicant is in line with legislation by displaying Blue Notices at the Premises on the 8<sup>th</sup> February 2024 and advertised the application in the Welwyn Hatfield Times on the 21<sup>st</sup> February 2024, the Public register was updated and placed on the Councils website and all the Responsible Authorities, Parish Councils and Councillors were notified.

**1 Unresolved representations**

The Licence Hearing is as a result of the Licensing Authority receiving 7 formal written relevant representations against the application from members of the public. The representations to the application have been submitted under the Licensing Act 2003 on the statutory grounds of:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

Part 2 Appendix A - Premises licence variation application form and proposed site plan with extended areas shown

Part 2 Appendix B – Existing premises licence, premises summary and premises plan

Part 2 Appendix C – Written representation against the application from Mary Westley

Part 2 Appendix D – Written representation against the application from Stuart Westley on behalf of Church Management Company

Part 2 Appendix E – Written representation against the application from Ann Bristow

Part 2 Appendix F – Written representation against the application from Anne Lloyd

Part 2 Appendix G – Written representation against the application from Bridget Gavin

Part 2 Appendix H – Written representation against the application from Peter Branchflower

Part 2 Appendix I – Written representation against the application from Louise Hughes

## **2 Details of Representation Received**

Seven formal written relevant representations have been submitted to the premises licence variation application from members of the public. The representations were received during the consultation period and have been judged as appropriate and the application has therefore been brought to the Licensing Sub Committee to be determined.

The representation from Mary Westley is made on the grounds of public safety and prevention of public nuisance licensing objectives. This representation can be found in Appendix C to the officer report.

The representation from Stuart Westley on behalf of Church Management Company is made on the grounds of public safety and prevention of public nuisance licensing objectives. This representation can be found in Appendix D to the officer report.

The representation from Ann Bristow is made on the grounds of the prevention of crime and disorder, public safety and prevention of public nuisance licensing objectives. This representation can be found in Appendix E to the officer report.

The representation from Ann Lloyd is made on the grounds of the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm licensing objectives. This representation can be found in Appendix F to the officer report.

The representation from Bridget Gavin is made on the grounds of the prevention of crime and disorder, public safety and prevention of public nuisance licensing objectives. This representation can be found in Appendix G to the officer report.

The representation from Peter Branchflower is made on the grounds of public safety and prevention of public nuisance licensing objectives. This representation can be found in Appendix H to the officer report.

The representation from Louise Hughes is made on the ground of the public safety licensing objective. This representation can be found in Appendix I to the officer report.

### **Background**

The application submitted is for the variation of a premise licence by Safeline Training and Consultancy on behalf of the premises licence holder Mr Altin Rexho for Rodi Restaurant, 1 Church Street, Welwyn, AL6 9LN. The premises is located on Church Street within the village of Welwyn. The premises was granted a premises licence in November 2021 for the sale/supply of alcohol on and off the premises Monday – Sunday 10:00 - 22:30 with premises opening times of Monday – Sunday 08:00 – 23:00.

The variation is to extend the licensable area to include the premises garden area (maximum seating capacity of 50 persons) and a small front forecourt area (maximum seating capacity of 8 persons). The sale/supply of alcohol at the premises would remain as currently permitted Monday – Sunday 10:00 – 22:30. The variation application is seeking to permit the sale/supply of alcohol for customers in the proposed outdoor areas Monday – Sunday 10:00 – 21:30 with the outdoor areas being open to customers Monday – Sunday 09:00 – 22:00.

The premises variation application proposes a number of measures which could be conditioned, one such measure is that any music played will have its volume reduced from 21:30. The agent for the application has advised that any music would be background (incidental) music and that the premises would only operate as permitted by the deregulation of regulated entertainment under the Live Music Act 2012, and therefore the existing premises licence and premises licence variation application does not request the inclusion of regulated entertainment such as music.

The Live Music Act removes the licensing requirements for live music and recorded music where:-

- There is a premises licence or club premises certificate in place permitting 'on sales'
- The premises are open for the sale or supply of alcohol for consumption on the premises
- Live or recorded music is taking place between 8am and 11pm
- If the music is amplified live music or recorded music (e.g. DJs or a disco for example), the audience consists of no more than 500 people

The existing premises licence, premises summary and premises plan can be found in Appendix B to this report.

### **3 Explanation**

The committee is obliged to determine this application for the variation of the existing premises licence for Rodi Restaurant. In determining the application the Sub-Committee must take account of the council's duty to promote the statutory licensing objectives namely:

- A) The Prevention of Crime and Disorder
- B) Public Safety
- C) The Prevention of Public Nuisance
- D) The Protection of children from harm.

In making its decision, the committee is also obliged to have regard to the National Guidance and the Councils own Licensing Policy (Previously circulated).

#### **4 Licensing Policy**

- 5.1 The Sub-Committee will also wish to be aware of the Guidance issued under section 182 of the licensing Act 2003.

##### Guidance 9.37

As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

##### Guidance 9.42

Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. 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.

##### Guidance 9.43

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.

##### Guidance 9.44

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. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

#### Guidance 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. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. 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. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

#### Guidance 10.13

The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

- 5.2 The sub-committee will also wish to be aware of Welwyn Hatfield Council Statement of Licensing Policy, which includes

#### **Licensing Hours**

- 27.1 Licensing hours should not inhibit the development of a thriving safe night-time local economy which is important for investment and employment locally and attractive to domestic and international tourists. We will expect applicants to consider whether conditions are necessary for applications in areas which have denser residential accommodation.

- 27.2 We will consider individual applications on their own merits. Fixed predetermined closing times for particular areas will not form part of the policy. Restriction on trading hours will be considered only where necessary to meet the licensing objectives. There will be a presumption to grant the hours requested unless there are objections to those hours raised by responsible authorities or the public on the basis of the licensing objectives.
- 27.3 The commercial demand for additional premises licences (as distinct from cumulative impact) will not be a matter for us as the licensing authority. These are matters for the local planning authority and market demand.
- 27.6 The Council operates an out of hours noise service based on the assessment of need. The nature and number of complaints are recorded and may be used when compiling reports for our licensing committee and sub committees.
- 27.7 Where relevant representations are made, the Council will consider the proposed hours on their individual merits. Notwithstanding this, the Council may require stricter conditions in areas that have denser residential accommodation to prevent public nuisance. The Council will endeavour to work with all parties concerned in such instances to ensure that adequate conditions are in place.

## **6 Recommendation**

- 6.1 The committee must have regard to the application made and the evidence it hears. The sub-committee is therefore asked to determine the application.
- 6.2 In determining the application, the Sub-Committee may on behalf of the licensing authority, and having regard to the promotion of the licensing objectives, statute, guidance and policy decide on the following courses of action:
- a) To grant the variation of the premises licence as proposed.
  - b) To modify the conditions of the licence by altering or omitting or adding to them (and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added).
  - c) To exclude any of the licensable activities to which the application relates.
  - d) To refuse to specify a person in the licence as the designated premises supervisor.
  - e) To reject the whole of the application or part of it.

The licensing authority may grant an application subject to different conditions in respect of

- a) different parts of the premises concerned
- b) different licensable activities

**7**     **Appendices**

- A. Premises licence variation application form, proposed layout plan and site plan with extended areas shown
- B. Existing premises licence, premises summary and premises plan
- C. Written representation against the application from Mary Westley
- D. Written representation against the application from Stuart Westley on behalf of Church Management Company
- E. Written representation against the application from Ann Bristow
- F. Written representation against the application from Anne Lloyd
- G. Written representation against the application from Bridget Gavin
- H. Written representation against the application from Peter Branchflower
- I. Written representation against the application from Louise Hughes

Nicol Tupling Licensing Technical Officer  
Date – 02/04/2024