

Licensing & Regulatory Sub-Committee

8 November 2022

**Name of Cabinet Member:**

Not applicable

**Director Approving Submission of the report:**

Director of Street Scene and Regulatory Services

**Ward(s) affected:**

Radford

**Title: Application for a Premises Licence Review under the Licensing Act 2003**

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**Is this a key decision?**

No

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**Executive Summary:**

The purpose of this report is to consider an application for a Review of a Premises Licence submitted by Environmental Protection, Coventry City Council under the Licensing Act 2003 for Rialto Reborn, 85 Moseley Avenue, Coventry, CV6 1HR.

**Recommendations:**

The Sub-Committee is recommended to consider whether to:

1. Modify the conditions of licence;
2. Exclude a licensable activity from taking place on the premises;
3. Remove the Designated Premises Supervisor (DPS);
4. Suspend the licence for up to 3 months; or
5. Revoke the licence.

**List of Appendices included:**

1. Premises Licence Review Application
2. Supporting documents
3. Representation in support of the Review application
4. Old Premises Licence
5. Current Premises Licence
6. Location Plan
7. Hearing Procedure Note
8. Relevant Hearing Briefing Note

**Other useful background papers:**

Section 182 Licensing Act 2003 Guidance

It is a statutory obligation of the Sub-Committee to take into account the Government's Guidance to the Licensing Act 2003 before reaching a decision.

**Statement of Licensing Policy**

The Council will have regard to its Statement of Licensing Policy when making a decision on applications made under the Act.

**Other Useful documents**

None

**Has it been or will it be considered by Scrutiny?**

Not applicable

**Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

Not applicable

**Report title: Premises Licence Review Application**

**1. Context (or background)**

**1.1** The Licensing Act 2003 requires Coventry City Council, as the Licensing Authority, to carry out its various licensing functions so as to promote the following four Licensing Objectives:

- The Prevention of Crime & Disorder
- The Protection of Public Safety
- The Prevention of Public Nuisance
- The Protection of Children From Harm

**1.2** A Premises Licence Review application for Rialto Reborn was received on 8 August 2022. The application submitted by Environmental Protection is requesting the removal of live music and recorded music from the premises licence. The Environmental Protection Section have received a number of complaints from local residents in the local area over several years concerning the playing of loud music and raised voices from customers both in and outside the premises despite attempts by officers to provide advice and guidance to the management of Rialto Reborn, complaints have persisted which has resulted in the service of a Noise Abatement Notice. This has had a detrimental effect on the quality of life of nearby local residents. Thereby, undermining the licensing objective of The Prevention of Public Nuisance.

**1.3** One representation has been received from an Other person in support of the Review application on the grounds that the licensing objective of the Prevention of Public Nuisance will be undermined (Appendix 3).

**1.4** A subsequent application to transfer the Premise Licence Holder from Rialto Reborn Ltd to Coventry Hospitality Ltd has been received on 19 October 2022 and granted (the updated licence can be found within the review application documentation).

**1.5** The Licensing Act 2003 requires the Council to publish a 'Statement of Licensing Policy' which sets out the policies the Council will have regard to and apply to promote the Licensing Objectives when making a decision on applications made under the Act. The Policy will be available at the hearing for reference purposes.

**1.6** It is essential that the Sub-Committee takes into account the government's guidance to the Licensing Act before reaching a decision. The applicant, Responsible Authorities, or any other persons, should bring to the Sub-Committee's attention any relevant paragraphs. However, it is suggested good practice for Members of the Sub-Committee to read the relevant paragraph(s) of the guidance prior to the hearing.

**2. Options considered and recommended proposal**

**2.1** There are five courses of action available to the Sub-Committee in relation to this application:

- modify the conditions of the licence;
- exclude a licensable activity from taking place on the premises;
- remove the Designated Premises Supervisor (DPS);
- suspend a licence for up to 3 months; and/or
- revoke the licence.

2.2 The Committee is recommended to consider this matter on its merits in accordance with statutory requirements and the Council's licensing policies, where relevant.

### 3. Results of consultation undertaken

3.1 As prescribed by the Licensing Act 2003, the application has been out for consultation to statutory consultees (Responsible Authorities) and any other persons for 28 days in the form of a notice displayed on the premises.

3.2 Responsible Authorities have received a copy of the application. Please see below responses received:

| Responsible Authority | Response Received | Representations | Conditions Agreed |
|-----------------------|-------------------|-----------------|-------------------|
| Licensing             | Yes               | No              | -                 |
| West Midlands Police  | Yes               | No              | -                 |
| Fire Safety           | Yes               | No              | -                 |
| Health & Safety       | No                | No              | -                 |
| Trading Standards     | Yes               | No              | -                 |
| Planning              | No                | No              | -                 |
| Safeguarding Children | No                | No              | -                 |
| Public Health         | No                | No              | -                 |
| Secretary of State    | No                | No              | -                 |

3.3 A representation has been submitted by an Other person (Appendix 3). The representation states that the loud music coming from the premises has been affecting their quality of life for several years. Therefore, the licensing objective of the Prevention of Public Nuisance is being undermined.

### 4. Timetable for implementing this decision

4.1 The Appeal period is 21 days beginning on the date that the Appellant(s) receive notification of the decision of the Licensing Authority.

### 5. Comments from Chief Operating Officer (Section 151 Officer) and Director of Law and Governance

#### 5.1 Financial implications

There are no financial implications arising directly from this report. However, there are possible cost implications if an appeal against the decision is made to the Magistrates Court and the decision of the Sub-Committee is not upheld.

#### 5.2 Legal implications

The Licensing Act 2003 sets out how an application, and subsequent hearing, for a Review of a Premises Licence should be conducted. The Sub-Committee must decide, having heard all representations, the outcome of the application taking into account the four Licensing Objectives as well as statutory guidance and the Council's own policies.

In accordance with the provisions of the Act, all Interested Parties may appeal against the decision, to a Magistrates' court within 21 days of receiving notification of the decision.

## **6. Other implications**

### **6.1 How will this contribute to achievement of the Council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint or Coventry Sustainable Community Strategy**

It is the Regulatory Services team's responsibility to ensure that members of the public in Coventry are not put at risk due to noise causing public nuisance. This contributes to the Council's core aim of ensuring that citizens live longer healthier lives. The business' failure to uphold the Licensing Objectives may have an adverse effect on Prevention of Public Nuisance and citizens' quality of life.

### **6.2 How is risk being managed?**

If the application is not handled in line with the Licensing Act 2003, there is a risk of judicial appeals, reviews and associated costs.

### **6.3 What is the impact on the organisation?**

None

### **6.4 Equalities / EIA**

This decision will not affect the service provision and therefore details of the Equalities Impact Assessment are not relevant in this case.

### **6.5 Implications for (or impact on) climate change and the environment**

None

### **6.6 Implications for partner organisations?**

The Council recognises that the licensing function is only one means of promoting delivery of the above objectives and should not therefore be seen as a means for solving all problems within the community. The Council will therefore continue to work with the West Midlands Police, Community Safety Partnership, local people and those involved in child protection (Coventry Safeguarding Children Board) to promote the common objectives as outlined.

### **6.7 Human Rights Act Implications**

None

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