

## **DELEGATED**

## **AGENDA NO.**

### **REPORT TO THE STATUTORY LICENSING COMMITTEE**

**7 NOVEMBER 2022**

### **REPORT OF ASSISTANT DIRECTOR OF COMMUNITY SAFETY AND REGULATED SERVICES**

## **LICENSING ACT 2003 APPLICATION FOR VARIATION OF A PREMISES LICENCE THE VANE ARMS – DURHAM ROAD, THORPE THEWLES**

### **SUMMARY**

The purpose of this report is for Members to determine an application for the variation of a premises licence under the Licensing Act 2003 to which there have been representations from residents.

### **RECOMMENDATION**

That Members determine the application.

### **THE APPLICATION**

1. An application for the variation of a Premises Licence has been received from Lee Ann Murray, in relation to The Vane Arms, Durham Road, Thorpe Thewles.
2. The variation is to increase the start time of supply of alcohol hours, increase the licensable area and remove a condition restricting access for children. A copy of the full application and detail is attached at Appendix 1.
3. The current licence is held by Vane Arms Thorpe Thewles Limited. Directors of the company are Lee Ann Murray and Benjamin Icke.

### **RESPONSIBLE AUTHORITIES**

2. Environmental Health have signed agreed conditions from the applicant. These conditions will be added to the operating schedule, should the licence be granted. Copies of these agreed conditions are attached at Appendix 2.

### **INTERESTED PARTIES**

3. A number of representations have been received from residents relating to:
  - Prevention of Public Nuisance
  - Prevention of Crime and Disorder
  - Prevention of Children from Harm and
  - Public Safety licensing objectives.

Full copies of the representations including contact details have been provided to the applicant prior to the hearing as required by the legislation and guidance. Copies of the representations are attached at Appendix 3.

## **ADDITIONAL INFORMATION**

4. The Vane Arms is an established premises. The conservatory area was built in November 2019 and has been in use since then. The outside area was initially extended in March 2021 during the pandemic ease of restrictions for outside dining only and has been in use since then. These changes were made without the required variation to the premises licence under the Licensing Act 2003.
5. A further extension was made in March 2022 raising the side wall and extending a residents fence after discussions with residents around privacy.
6. A complaint was made to Environmental Health in September 2021 by a resident with regards to the noise in the rear garden area, no formal action was taken in this case.
7. A complaint was made to Environmental Health in April 2022 by a resident with regards to the noise in the rear garden area and children playing football, diary sheets were not issued at this time as the complainant advised Environmental Health that the issues had improved.
8. In August 2022 a complaint was received by both Licensing and Environmental Health. Diary sheets were issued to the complainant, these were due to be returned on 11 October 2022 but have not been returned.
9. Officers from Licensing, Environmental Health and Planning attended the premises on 24 August 2022. The concerns were raised with Mr Icke and he was advised a premises licence variation was needed as the conservatory was not included on the premises licence plan.
10. It was also recommended the outside area was included on the premises plan to add it to the licensable area. This would enable staff to take orders for food and drinks outside as opposed to patrons ordering at the bar and then walking outside. He was also advised that planning consent would be needed for the extended garden area. The premises is in the process of seeking planning approval.
11. Mr Icke has engaged with residents at meetings to understand their issues and try and resolve the concerns. An initial meeting took place on 31 August 2022 where 10 residents voiced their concerns with Mr Icke.
12. On 4 September 2022 Mr Icke hand delivered a letter to 30 households directly behind the premises to make them aware of the issues raised at the meeting and gave his mobile number for a point of contact for any issues. A copy of this letter is attached at Appendix 4.
13. On 13 September 2022 Mr Icke held another meeting with further residents both in support of the premises and who those who have similar concerns. Mr Icke has also agreed to future attend Parish Council meetings.
14. Mr Icke has removed the football goals from the land at the rear of the premises and removed the small portable speaker from the outside area.
15. A Google street map and ariel view, showing the location of the premises, is attached at Appendix 5.

## **LEGISLATION AND POLICY CONSIDERATIONS**

16. Members are respectfully reminded of the need to give due consideration to Stockton Borough Councils Licensing Policy Statement and Section 182 Revised Guidance issued on April 2018 under the Licensing Act 2003 when determining this application. Copies of which can be found at:  
[www.stockton.gov.uk/media/1962147/licensing-act-policy-010221-accessible.pdf](http://www.stockton.gov.uk/media/1962147/licensing-act-policy-010221-accessible.pdf)

[www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003](http://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003)

17. Members are also reminded of the provisions of the Live Music Act 2012 and amended in 2015, which reduces regulation surrounding live music in small venues. Businesses granted a premises licence for the sale or supply of alcohol for consumption on the premises have an automatic entitlement to live or recorded music under this legislation if:
- it takes place between 08:00 – 23:00 and
  - the audience is no more than 500 people.

More information on the above legislation can be found at:

[Live Music Act 2012 - Explanatory Notes \(legislation.gov.uk\)](http://legislation.gov.uk)

[Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](http://publishing.service.gov.uk)

18. Current Council Policy States:

*'The Council recommends that applicants risk assess their operation against the four licensing objectives to identify potential areas of concern. An operating schedule should include information which is necessary to enable any responsible authority or other person to assess whether the steps to be taken to promote the licensing objectives are satisfactory.'* Pg 9.

*'The licensing authority expects that operators will consider imposing time restrictions on the use of outside drinking areas and with regard to premises situated in residential areas, the licensing authority would not normally expect such outside drinking areas to be in use beyond 10.00pm.'* Pg 18.

*Shops, stores and supermarkets will in general be licensed to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping but new or variation applications requesting that the sale of alcohol starts before 9.00am or finishes after 10.00pm in residential areas will generally be refused. In addition, new or variation applications for the supply of alcohol for consumption on the premises before 9.00am or after 11.30pm (12 midnight on a Friday and Saturday night) in residential areas will normally be refused.*

*New or variation applications for late night refreshment in terms of hot food takeaways in residential areas will normally be refused beyond 12 midnight.* Pg 22.

## **MEMBERS OPTIONS**

19. Members must carry out their functions with a view to promoting the four licensing objectives:
- The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm

Members may consider the following options:

1. To refuse the application.
2. To grant all or part of the application subject to the necessary conditions to promote the four licensing objectives.

20. Planning and Environmental Health representatives have been invited to today's meeting should Members have further questions.

## ASSOCIATED PAPERS

The following appendices are attached for information:

Appendix 1 - Application Form

Appendix 2 – Environmental Health Agreed Conditions

Appendix 3 - Representations

Appendix 4 – Letter to residents from premises

Appendix 5 – Google Map

**Assistant Director of Community  
Safety and Regulated services  
Contact Officer:  
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**Financial Implications:**

None

**Environmental Implications:**

The Licensing Act 2003 requires the Licensing Authority to have regard to:

- Public Safety.
- The Prevention Of Public Nuisance

Any conditions imposed should reduce the potential for environmental harm.

**Community Safety Implications:**

The Licensing Act 2003 requires the Licensing Authority to have regard to:

- The Prevention Of Crime And Disorder

Any conditions imposed should reduce the potential for crime and disorder.

**Legal Implications:**

Depending upon the determination of this application Schedule 5 of the Licensing Act 2003 provides the applicant, the holder of a licence and/or any person who made a relevant representation in relation to the application, with the right of appeal to the Magistrates' court.

**Human Rights Implications:**

Members should have regard to Human Rights Act when determining this application

**Background Papers:**

Stockton Borough Council Licensing Policy Statement and Licensing Act 2003 Section 182 Guidance

**Ward(s) and Ward Councillors:**

Councillor John Gardner