

STATUTORY LICENSING SUB COMMITTEE

A meeting of Statutory Licensing Sub Committee was held on Tuesday 23 July 2024.

Present: Cllr Eileen Johnson (Chair), Cllr Susan Scott and Cllr Marilyn Surtees.

Officers: John Devine, Polly Edwards, Natalie Hodgson and Stephanie Landles.

Also in attendance: Cllr John Coulson, PC Andrew Thorpe (Cleveland Police), Mr Elayarajah Rajaruban (Akshayan Convenience Store), Mr Shan (Akshayan Convenience Store), Victoria Powell (The Keys – 65-67 High Street, Yarm) and John Taylor (The Keys – 65-67 High Street, Yarm)

Apologies: .

SLS/9/23 Evacuation Procedure

The evacuation procedure was noted.

SLS/10/23 Declarations of Interest

There were no declarations of interest.

SLS/11/23 Minutes of the meetings which were held on 8 August and 7 September 2023

RESOLVED that the Minutes of the Statutory Licensing Sub Committee meetings held on 8 August and 7 September 2023 be signed as a correct record.

SLS/12/23 LICENSING ACT 2003 APPLICATION FOR A PREMISES LICENCE AKSHAYAN CONVENIENCE STORE - 13 ROCHESTER ROAD, STOCKTON-ON-TEES

Members of the Statutory Licensing Sub Committee of the Council's Statutory Licensing Committee were asked to consider an application for Grant of a Premise Licence for Akshayan Convenience Store – 13 Rochester Road, Stockton on Tees.

The Chair introduced all persons who were present and explained the procedure to be followed during the hearing.

A copy of the report and supporting documents had been provided to all persons present and to Members of the Committee. All parties present were given the opportunity to make representation.

Members of the Statutory Licensing Sub Committee of the Council's Statutory Licensing Committee considered the above application, full details of which appeared before Members in their committee papers.

The Committee noted that the application was for the grant of a Premises Licence as detailed in the application appended to the Committee report.

Mr Shan who was representing Mr Rajaruban was given the opportunity to explain to the Committee that he himself was experienced in running fuel stations and convenience stores across the UK since becoming a retailer in 1999. The Committee understood that Mr Shan was Mr Rajaruban's previous employer and that was why he was representing him today.

Mr Shan informed Members that Mr Rajaruban had worked at fuel stations for seven years and had never experienced any issues. Mr Shan expressed Mr Rajaruban's wished to engage with the community and protect children from alcohol and age restricted products, as he was a family man with three young boys himself.

Mr Shan assured the Committee that Mr Rajaruban had always complied with the requirements of the relevant legislation and policies and would be a responsible retailer. Mr Shan informed the Committee that in the premises that Mr Rajaruban had worked at, he had never failed a test purchase in relation to the sale of alcohol or other age restricted products.

Mr Shan advised the Committee that an extensive list of conditions had been agreed with Cleveland Police, which demonstrated that the premises would be run in a responsible manner and would not undermine the licensing objectives. The premises had an extensive CCTV system including audio recording and would operate a Challenge 25 policy to ensure that there were no underage sales of alcohol.

In response to the Committee's questions, Mr Shan confirmed that he was not in any way connected with the business and was simply supporting Mr Rajaruban as his representative and friend.

Mr Shan told the Committee that Mr Rajaruban did not take the law lightly and was a fit and capable person to hold a licence.

Mr Shan confirmed to the Committee that Mr Rajaruban wished to amend his application in order that the hours for the supply of alcohol was from 9:00 hours until 22:00 hours Monday to Sunday in line with the Council's Licensing Policy.

Councillors were given an opportunity to ask questions of the applicant.

The Committee read and had regard to a representation received from a resident who lived nearby and who wished to object to the application. The representee listed his own, plus an additional twelve addresses on Rochester Road. The Committee noted that residents' names were not provided, nor their individual concerns.

The representation stated that the premises' alcohol licence was revoked approximately five years ago due to underage selling, littering, violence in the street, vehicle noise and the sale of illegal drugs. The Committee read that the representee expressed that this was a quiet neighbourhood where the elderly and young families lived, and that residents did not wish for those issues to return.

The Committee were unable to ask questions of the representee, as he did not attend the hearing.

All parties present, were given an opportunity to sum up their case with the applicant invited to speak last.

Members had regard to the Committee papers, which had been circulated prior to the hearing and presented to them, in addition to the oral submissions made by the applicant, his representative and the licensing officer.

Having carefully considered those matters brought before them and in reaching their decision, the Members had full regard to both the provisions of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006), the Guidance Issued under Section 182 of the Licensing Act 2003 (as amended) and the Council's Licensing Policy.

The Committee noted that the residents who had objected to the application were concerned at the potential for an increase in crime and anti-social behaviour. The Committee also noted that they must consider this application for a grant of the premises licence on its merits. The Committee were mindful that an application could not be refused based solely on residents' concerns.

The Committee noted that an extensive list of conditions had been agreed with Cleveland Police, which demonstrated that the premises would be run in a responsible manner and would not undermine the licensing objectives. In the Committee's view, these conditions also addressed some of the concerns which had been expressed by the residents who had objected to the application.

These conditions were:-

- A "Challenge 25" policy will be implemented with all staff insisting on evidence of age from any person appearing to be under 25 years of age and who is attempting to buy alcohol. There shall be notices displayed at all points of sale and at all entrances and exits to inform customers and remind staff that the premises are operating a "Challenge 25" policy.
- Only valid passports, UK "photo card style" driving licence, PASS approved proof-of-age cards or Ministry of Defence "Form 90" identification cards shall be accepted as proof of age.
- All staff will be fully trained in relation to the laws relating to the sale of alcohol to underage persons, persons buying on behalf of under 18's (proxy sales) persons appearing to be under the influence of alcohol and also the operation of the associated "Challenge 25" policy. Staff will receive refresher training at least every 6 months.
- Training records signed by both the staff member and the Designated Premises Supervisor/Store Manager/Business Owner will be retained for future reference and shall be updated at least every 6 months. All staff training records will be made available to the Licensing Authority and/or Responsible Authorities upon request.
- There will be a minimum of two notices displayed on the premises indicating that the sale of alcohol to those under the age of 18 is illegal and that those adults who buy alcohol for immediate disposal to those under the age of 18 are committing an offence.
- A digital Closed Circuit Television System (CCTV) will be installed and maintained in good working order and be correctly time and date stamped. The system will

incorporate sufficient built-in hard-drive capacity to suit the number of cameras installed, whilst complying with Data Protection legislation.

- CCTV will be capable of providing pictures of evidential quality in all lighting conditions, particularly facial recognition. Cameras will encompass all ingress and egress to the premises, outside areas and all areas where the sale/supply of alcohol occurs.
- There will be a minimum of 28 days recording. The system will record for 24 hours a day.
- The system will incorporate a means of transferring images from the hard-drive to a format that can be played back on any desktop computer. The digital recorder will have the facility to be password protected to prevent unauthorised access, tampering, or deletion of images.
- There will be at all times a member of staff who is trained in the use of the equipment and upon receipt of a request for footage from a governing body, such as Cleveland Police or any other Responsible Authority, be able to produce the footage within a reasonable time, e.g. 24 hours, or less if urgently required for investigation of serious crime.
- The business will maintain a refusals book to record all instances where the sale of alcohol has been refused. This shall include the date and time of the attempted sale, together with a description of the incident. The Designated Premises Supervisor/Store Manager/Business Owner will check and sign each page and the refusals book will be made available to the Licensing Authority and/or Responsible Authorities upon request.
- The business will maintain an incident book to record all instances where the staff deal with people who have been unruly, drunk, abusive, and aggressive or have committed criminal acts or have had to call police for such incidents. This shall include the date and time of the incident, together with a description of the incident and whether the police were called/attended. The Designated Premises Supervisor/store Manager/Business Owner will check and sign each page and the incident book will be made available to the Licensing Authority and/or Responsible Authorities upon request.
- No beer, lager or cider of 6.5% ABD (alcohol by volume) or above shall be sold at any time.
- The Premises will not sell any single cans of lager, beer or cider.

The Committee were satisfied that the applicant understood his responsibilities and would operate the premises in a responsible manner.

After considering all of the evidence and representations, the Committee were of the view that the application could be granted subject to the amended hours as confirmed by the applicant.

The Committee granted the application with the following hours:-

Supply of alcohol

Monday 9:00am to 10:00pm
Tuesday 9:00am to 10:00pm
Wednesday 9:00am to 10:00pm
Thursday 9:00am to 10:00pm
Friday 9:00am to 10:00pm
Saturday 9:00am to 10:00pm
Sunday 9:00am to 10:00pm

The Committee agreed to attach the conditions to the licence that had been agreed between the Applicant and Cleveland Police.

RESOLVED that the application for grant of a Premise Licence for Akshayan Convenience Store – 13 Rochester Road, Stockton on Tees, be granted for the reasons and with the conditions as detailed above.

SLS/13/23 LICENSING ACT 2003 APPLICATION FOR VARIATION OF A PREMISES LICENCE THE KEYS – 65-67 HIGH STREET, YARM, STOCKTON-ON-TEES

Members of the Statutory Licensing Sub Committee of the Councils Statutory Licensing Committee were asked to consider an application for a variation of a premise licence for The Keys – 65-67 High Street, Yarm, Stockton-On-Tees, to which there had been representations from Responsible Authorities and Local Ward Councillor, representing residents

The Chair introduced all persons who were present and explained the procedure to be followed during the hearing.

A copy of the report and supporting documents had been provided to all persons present and to Members of the Committee.

Members of the Statutory Licensing Sub Committee of the Council's Statutory Licensing Committee considered the above variation application, full details of which appeared before Members in their committee papers.

The Sub-Committee noted that the application was for the variation of a premises licence as detailed in the application appended to the Sub-Committee report, in summary:-

1. to vary the conditions relating to door staff;
2. to extend the finishing time by one hour for an additional four times per year (an increase from eight to twelve times per year) and;
3. to extend the operational time by one hour when British Summer Time starts.

The Committee heard that there had been no objections relating to the first and the third requested variations.

The Applicant Ms Powell explained to the Sub-Committee that the premises was rarely opened as a night club now; the last time they did this was on 5th May 2024, for the bank holiday weekend. The Sub-Committee heard from the Applicant that The Keys used to have the monopoly in Yarm, however there were now other premises that were also open until 2:00am.

Ms Powell told the Sub-Committee that the current premises licence allowed them to extend their finishing time by one hour, eight times per year, on a Friday or Saturday (the premises must give 14 days' notice of this to the licensing authority). Ms Powell therefore confirmed to the Sub-Committee that the variation application was to increase the number of times per year that the premises can do this, from eight to twelve times per year.

The Sub-Committee heard from Ms Powell that last year, each of the eight extended finishing times were utilised in December for events such as well-known DJ sets, giving The Keys an opportunity to compete with other premises and attract customers.

Assistant General Manager & Designated Premises Supervisor, Mr Taylor advised the Sub-Committee that the night club landscape had changed; custom was decreasing as additional premises nearby now opened later, leaving The Keys at a commercial disadvantage. The reason therefore for the variation request to increase the number of times per year that the premises could extend their finishing time was to allow more high profile events to take place, giving The Keys an opportunity to compete with other premises.

With regard to a suggestion that there were noise issues alleged at the weekend around the 10th June 2024, the Sub-Committee heard from Ms Powell that the premises had not been opened as a night club since 5th May 2024.

Everyone present was given an opportunity to ask questions of the applicant and the members of the Sub-Committee asked questions of the applicant.

The Sub-Committee read and had regard to the representation received from Ward Councillor Sherris, representing local residents.

The Sub-Committee heard from Councillor Coulson, on behalf of Councillor Sherris, that concerns centred around the existing hours that the premises remained open late already, which caused issues for residents living on the High Street, High Church Wynd and The Old Market.

The Sub-Committee heard that the issues reported by residents include noise from the building and the movement of pedestrians, particularly into High Church Wynd. The Sub-Committee were told that in Councillor Sherris' view, increasing the hours will only exacerbate the existing problems. Reference was made in Councillor Sherris' representation to "alleged noise issues this past weekend" (the representation is dated 10th June 2024).

The Sub-Committee read and had regard to the representation received from Environmental Health on the grounds of the prevention of public nuisance.

The Sub-Committee heard from the Environmental Protection Team Manager that she had the benefit of over twenty years' experience of investigating such issues at this premises. The Environmental Protection Team Manager expressed to the Sub-Committee that Ms Powell, Mr Taylor and their management team worked very closely with Environmental Health, and wanted to make it clear that they had a consistently good working relationship with management at the premises.

The Committee heard from the Environmental Protection Team Manager that there were noise complaints about the premises, and Environmental Health would like to see the premises consistently abide by and maintain the premises licence conditions already in place, before any more occasions to open late were granted.

The Environmental Protection Team Manager explained to the Sub-Committee that there was an existing condition on the premises licence that required the premises to lower the maximum decibel level set by Environmental Health by five decibels, between the hours of 2:00am and 3:00am. The Committee heard that previously the premises had relied upon this being manually controlled, and this may not have always been adhered to, however it was understood that in future this would be automatically lowered at 2:00am to ensure compliance with that licence condition.

The Environmental Protection Team Manager advised the Sub-Committee that Environmental Health treat information received confidentially and therefore could not identify individuals who had complained, nor their addresses. The applicant explained to the Sub-Committee, in response, that this made it difficult for them to work with residents when they did not know who the complainants were.

The Environmental Protection Team Manager reiterated to the Sub-Committee that customer noise was well managed by the premises, however the issue was low level frequencies; the base of the music. The Environmental Protection Team Manager explained to the Sub-Committee that low level frequencies travels and reverberates through the old building's structure. The Environmental Protection Team Manager confirmed that there had been updates to the building, however, this was an old building that could not be updated to the same standards of newer buildings.

In response to the Sub-Committee's questioning, The Environmental Protection Team Manager explained that there was nothing that the premises were missing or not doing; they had their own acoustic engineers, anti-vibration mounts on speakers, it was simply the location of this premises in a residential area, and in such an old building, that leads to the heavy base being a concern for nearby residents. The Committee heard that this was particularly prevalent in the early hours of the morning when there was very little other noise in that environment.

The Environmental Protection Team Manager requested that the Sub-Committee consider giving the premises an opportunity to demonstrate that they consistently comply with lowering the maximum sound level by five decibels between the hours of 2:00am and 3:00am, before any additional later finishing times were permitted.

The members of the Sub-Committee and other parties were given an opportunity to ask questions.

All parties present were given an opportunity to sum up their case with the applicant invited to speak last.

Members had regard to the Sub-Committee papers, which had been circulated prior to the hearing and presented to them, in addition to the oral submissions made by the all parties at the hearing.

Having carefully considered those matters brought before them and in reaching their decision, the Members had full regard to both the provisions of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006), the Guidance Issued under

Section 182 of the Licensing Act 2003 (as amended) and the Council's Licensing Policy.

The Sub-Committee were of the view that varying the conditions relating to door staff and extending the operational time by one hour when British Summer Time begins would not undermine the licensing objectives. The Sub-Committee therefore confirmed that the variation application was granted in part.

The Sub-Committee were satisfied that the applicant understood its legal responsibilities and would continue to operate the premises in a responsible manner, in line with the information provided by Environmental Health at the Sub-Committee hearing. The Sub-Committee were however of the view that they had to give weight to the fact that the relevant appropriate authority, in this case Environmental Health, had made representations in response to the variation application for a further four extended finishing times per year.

The Sub-Committee noted that the residents represented by Councillor Sherris, who had objected to the variation application, were concerned at the potential for an increase in noise nuisance in the local area, particularly in the early hours of the morning. The Sub-Committee also noted that they must consider this application to vary the premises licence on its merits. The Sub-Committee were mindful that an application could not be refused based solely on residents' concerns. On balance, however, the information provided by Environmental Health added weight to the residents' concerns, and the Sub-Committee felt that granting the variation application to allow a further four extended finishing times per year would undermine the prevention of public nuisance licensing objective.

After considering all of the evidence and representations carefully, the Sub-Committee were of the view that the application could be granted in part, as per the explanation set out above.

The Sub-Committee agreed to remove the following two conditions...:-

“Annex 2

When the premises is to be open for licensable activity after midnight on a Tuesday a minimum of 3 door supervisors will be provided between the hours of 22.00 until closing time.

Annex 3

SIA registered door staff will be used at the premise as follows:

Tuesday – minimum 3 door staff required at 22:00 hours only if nightclub is open and all working until closing time.

Friday – minimum 6 door staff, 2 starting at 21:00 hours, 2 starting at 22:00 hours and 2 starting at 23:00 all working until closing time.

Saturday – minimum 6 door staff, 2 starting at 21:00 hours, 2 starting at 22:00 hours and 2 starting at 23:00 all working until closing time.

Sunday before Bank Holiday, Boxing Day and New Year's Eve – minimum 8 door staff, 2 starting at 21:00 hours, further 6 door staff starting at 21:00 hours, all working until closing time.”

...and replace the above with the following:-

“SIA registered door staff will be used at the premises as follows-

Friday, Saturday and Sunday before Bank Holiday, Good Friday, Boxing Day and New Year's Eve for up to 200 patrons in the venue, from 21:00 hours until closing time:-

- Minimum of 3 door staff when downstairs and cocktail lounge only open to the public.
- Minimum of 4 door staff If any of the others upstairs rooms open are opened in addition to above rooms. If over 200 patrons in the venue, 1 door staff for every additional 100 patrons.”

The Sub-Committee also agreed to include a provision to extend operational time by one hour when British Summer time begins.

Other than as set out above, the Sub-Committee did not attach any additional conditions to the premises licence, which remained unchanged, except for the above variations to conditions relating to door staff and extending the operational time by one hour when British Summer Time begins.

RESOLVED that the application for a variation of a Premise Licence The Keys, High Street, Yarm, Stockton on Tees, be granted in part for the reasons and with the conditions as detailed above.