

Statutory Licensing Sub Committee

A meeting of Statutory Licensing Sub Committee was held on Monday, 7th November, 2022.

Present: Cllr Paul Kirton (Chair), Cllr Eileen Johnson, Cllr Mick Moore

Officers: Natalie Hodgson, Sarah Whaley, (D o CS), Stephen Donaghy, Polly Edwards, Michael Fearman, Ellie Hewett, Amy Stephenson, Kirsty Wannop (D o A&H), Simon Grundy (D o F,D&R)

Also in attendance: Vane Arms Thorpe Thewles Limited, Mr Ben Icke & Ms Lee Ann Murray (Directors), represented by Mr Richard Arnot of Ward Hadaway LLP.

Members of the public:- Mrs J Hogg representing Mr M Hogg, Mrs E Duck representing Ms D Johnson, Mr C Homewood, Mr J Gillson, Mr T Sharma, Ms L Williams, Ms M Ireland.

Apologies: N/A

SLS 11/22 **Evacuation Procedure**

The Evacuation Procedure was noted.

SLS 12/22 **Declarations of Interest**

There were no declarations of interest.

SLS 13/22 **Minutes of the Statutory Licensing Sub Committee meetings which were held on 13th July and 9th August 2022**

This item included additional information in relation to the item 'Licensing Act 2003, Application for a variation of a premise Licence, The Vane Arms - Durham Road, Thorpe Thewles, Stockton on Tees'. Please refer to the above for the Committee's decision.

RESOLVED that the minutes be signed by the Chairman.

SLS 14/22 **LICENSING ACT 2003 APPLICATION FOR VARIATION OF A PREMISES LICENCE THE VANE ARMS – DURHAM ROAD, THORPE THEWLES**

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 Then Vane Arms - Durham Road, Thorpe Thewles, Stockton on Tees, where a number of objections had been received from local 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 Applicants legal representative Mr Richard Arnot informed the Sub-Committee that he was representing the company in their application to vary a premises licence.

Mr Arnot highlighted the case of Taylor v Manchester City Council TCG Bars Ltd [2012] EWHC 3467 (Admin), which the Sub-Committee heard was the leading case law in relation to variation applications.

Mr Arnot also gave the Sub-Committee an overview of the premise and its business; it was 70% food-led and employed 18 members of staff. Mr Arnot pointed the Sub-Committee to Director, Mr Ben Icke's, CV, and the positive reviews of the premises within the papers before the Sub-Committee.

Mr Arnot summarised his client's application to the Sub-Committee: -

- To extend the area licenced for the sale of alcohol to include the conservatory area, small function area and the outside area, as detailed within the supplied plan, in order to enable staff to take orders/payments outside.
- To remove the condition under which children have to leave the premises by 19:00 hours, in order to be more family-friendly; and
- To extend the time period for the supply of alcohol to begin at 10:00 hours and end at 23:00 hours, Monday to Saturday, and 10:00 hours to 22:00 hours on Sunday. Mr Arnot highlighted that the Council had recommended that thirty minutes be added to the premises' closure times (23:30 hours Monday to Saturday and 22:30 hours on Sunday) as this was preferred by the Council to assist with the gradual dispersal of patrons.

The Sub-Committee heard from Mr Arnot that Mr Icke had sought to engage and work with local residents, which was confirmed within the Licensing Officers report. Mr Arnot explained that the proposed conditions that his client had agreed with Environmental Health sought to address residents' concerns around noise, including the external area being limited to use from 10:00 hours to 22:00 hours.

Having been asked a question in relation to child safeguarding, Mr Arnot confirmed to the Sub-Committee that in relation to the condition under which children had to leave the premises by 19:00 hours, the application was to be amended to change this condition, rather than remove it. The application therefore was to amend the time from 19:00 hours to 21:00 hours within this condition.

Residents were given an opportunity to ask questions of the applicant. The members of the Sub-Committee asked questions of the applicant.

It was noted that Environmental Health had made representations however these were later withdrawn once conditions were agreed. The applicant had indicated amendments to their operating schedule which would be attached by way of conditions should the variation application be granted. A copy of the conditions agreed with the applicant was appended with the main report.

Members had regard to the twelve representations received from residents of Thorpe Thewles, the majority of whom had rear gardens adjacent to the rear garden of the premises.

The Sub-Committee heard from residents that their main concerns arose from the proximity of the premises to their gardens, particularly in relation to noise emanating from the raised decked area within the premises' garden. The Sub-Committee were told that other concerns included patrons of the premises looking into their properties, and residents feeling reluctant to enjoy their gardens due to patrons of the premises being heard talking nearby.

One resident referred to the noise from children playing football, however accepted that this was no longer an issue since the applicant removed football goals from the premises' garden. The residents expressed to the Sub-Committee that they felt that their quality of life was suffering as a result of the issues outlined to the Sub-Committee.

The Sub-Committee heard from residents in relation to concerns that appeared to be planning matters. The Chair of the Sub-Committee explained to everyone present that licensing and planning were separate regimes that operated independently.

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 all of the Sub-Committee papers, which had been circulated prior to the hearing and presented to them, in addition to the oral submissions made on behalf of the applicant and the other parties at the meeting.

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), the Council's Licensing Policy, and the case law highlighted by the applicant's representative.

The Sub-Committee noted that conditions had been agreed between the applicant and responsible authority Environmental Health. The Sub-Committee were of the view that they had to give weight to the fact that the relevant appropriate authority had considered the application and was of the view that the proposed conditions would ensure that the premises would not undermine the licensing objectives. The conditions sought to address the concerns which had been expressed by residents who had objected to the application.

The Sub-Committee noted Mr Icke's engagement with the premises' neighbours and local residents. The Sub-Committee were satisfied that the applicants understood their responsibilities and would continue to operate the premises in a responsible manner and respond proactively to complaints.

The Sub-Committee noted that the residents who had objected to the application were concerned at the potential for noise nuisance. The Sub-Committee also noted that they must consider this application for a variation of the premises licence on its own merits. The Sub-Committee were mindful that an application could not be refused based solely on the residents' concerns before them. On balance it appeared to the Sub-Committee that the proposed conditions would ensure that residents were not subject to public nuisance and that the licensing objectives would not be undermined.

After considering all of the evidence and representations, the Sub-Committee were of the view that the application could be granted, subject to the amendment agreed by Mr Arnot regarding the condition under which children must leave the premises by 21:00 hours, and the inclusion of the nine conditions agreed between the applicant and Environmental Health.

The Sub-Committee granted the variation application with the following hours:-

Licensable activities including the supply of alcohol were granted as set out in the application:

Monday to Saturday 10:00 to 23:00 hours.
Sunday 10:00 to 22:00 hours.

Hours premises are open to the public Monday to Friday with a closing time of 23:30 hours and Sunday 22:30 hours.

Amended condition - Children will not be allowed in the pub after 21:00 hours unless they are dining and accompanied by an adult (formerly 19:00 hours).

As well as conditions as detailed in the operating schedule the Sub-Committee also attached the following additional conditions to the Premises Licence:-

Conditions agreed with Environmental Health

1. All external doors and windows shall be kept closed (excluding for access and egress) while entertainment is in progress.
2. The use of the external area by customers shall be limited from 10:00 to 22:00 hours.
3. Noise from the premises shall not cause a public nuisance at any residential property in the vicinity.
4. Any music played in the premises after 23:00 hours should be background music only.
5. Refuse, including bottles shall be disposed of from the premises between the hours of 07:00 - 18:00 hours.
6. The licence holder or his representative shall conduct periodic assessments

of the noise coming from the premises and shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record shall be made of those assessments and shall include, the time and date of the checks, the person making them and the results including any remedial action. All records shall be retained for one year.

7. Use appropriate management controls to reduce the likelihood of customers causing a nuisance to local residents when using and vacating the premises. This should include placing at all exits from the premises, in a place where they can be seen and easily read by the public, notices requiring customers to use and leave the premises and the area quietly. (Note, this may also include a reference to vehicles).

8. There shall be no use of lighting likely to cause a nuisance to local residential properties.

9. All deliveries/collections associated with the business activity should be undertaken in ways which will not cause a noise disturbance to local residents.

RESOLVED that the application for grant of a Variation of a Premise Licence for The Vane Arms, Durham Road, Thorpe Thewles, Stockton on Tees, be granted for the reasons as detailed above.

**SLS
15/22** **Additional information - Applicants Bundle**

This item included additional information in relation to the item 'Licensing Act 2003, Application for a variation of a premise Licence, The Vane Arms - Durham Road, Thorpe Thewles, Stockton on Tees'. Please refer to the above for the Committee's decision.

**SLS
16/22** **Vane Arms - Additional Information - Resident**

This item included additional information in relation to the item 'Licensing Act 2003, Application for a variation of a premise Licence, The Vane Arms - Durham Road, Thorpe Thewles, Stockton on Tees'. Please refer to the above for the Committee's decision.

**SLS
17/22** **Vane Arms - Additional Information 2 - Resident**

This item included additional information in relation to the item 'Licensing Act 2003, Application for a variation of a premise Licence, The Vane Arms - Durham Road, Thorpe Thewles, Stockton on Tees'. Please refer to the above for the Committee's decision.

**SLS
18/22** **LICENSING ACT 2003
APPLICATION FOR VARIATION OF A PREMISES LICENCE
THE VANE ARMS – DURHAM ROAD, THORPE THEWLES**

Appendix 3 Exempt Information

This item included confidential information in relation to the item 'Licensing Act 2003, Application for a variation of a premise Licence, The Vane Arms - Durham Road, Thorpe Thewles, Stockton on Tees'. Please refer to the above for the Committee's decision.

**SLS
19/22** **Additional information - Applicants Bundle**

This item included confidential information in relation to the item 'Licensing Act 2003, Application for a variation of a premise Licence, The Vane Arms - Durham Road, Thorpe Thewles, Stockton on Tees'. Please refer to the above for the Committee's decision.

**SLS
20/22** **Vane Arms - Additional Information - Resident**

This item included confidential information in relation to the item 'Licensing Act 2003, Application for a variation of a premise Licence, The Vane Arms - Durham Road, Thorpe Thewles, Stockton on Tees'. Please refer to the above for the Committee's decision.

**SLS
21/22** **Vane Arms - Additional Information 2 - Resident**

This item included confidential information in relation to the item 'Licensing Act 2003, Application for a variation of a premise Licence, The Vane Arms - Durham Road, Thorpe Thewles, Stockton on Tees'. Please refer to the above for the Committee's decision.