

DELEGATED

REPORT TO THE STATUTORY LICENSING COMMITTEE

23 JULY 2024

REPORT OF ASSISTANT DIRECTOR OF COMMUNITY SAFETY AND REGULATED SERVICES

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

SUMMARY

The purpose of this report is for Members to determine a variation application from an existing licensed premises, under the Licensing Act 2003, to which there have been representations from Responsible Authorities and Local Councillor, representing residents.

RECOMMENDATION

That Members determine the application.

THE APPLICATION

1. An application for a variation of a premises licence has been received from Victoria Powell, Mistell Ltd, in relation The Keys 65-67 High Street, Yarm.
2. A copy of the full application and detail is attached at Appendix 1 and is to:
 - vary the conditions relating to door staff,
 - to extend the finishing time by one hour for an additional 4 times per year, for 8 to 12 times and
 - to extend the operational time by one hour when British Summer Time starts.
3. The current licence showing the current times and conditions is attached as Appendix 2.

RESPONSIBLE AUTHORITIES

4. A representation has been received from Environmental Health under the grounds of Prevention of Public Nuisance, stating there will be a greater likelihood of public nuisance associated with entertainment and from clients leaving the premises because of the proposed extended hours. A copy of the representation is attached as Appendix 3.
5. Environmental Health have provided further information to clarify to the original representation and this is attached as Appendix 3a.
6. A representation has been received from Councillor Andrew Sherris in his capacity as a Councillor representing residents, on the grounds of Prevention of Crime and Disorder and Prevention of Public Nuisance. Stating the existing hours are already very late and do cause issues for residents living nearby. A copy of the representation is attached as Appendix 4.

ADDITIONAL INFORMATION

7. Councillor Sherris represents residents who live close to the premises. The Section 182 guidance which accompanies the Licensing Act 2003 states:

As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, these persons may themselves seek a review of a premises licence. Any representations made by these persons must be 'relevant', in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. In the case of applications for reviews, there is an additional requirement that the grounds for the review should not be considered by the licensing authority to be repetitious.

Chapter 9 of this guidance (paragraphs 9.4 to 9.10) provides more detail on the definition of relevant, frivolous and vexatious representations.

While any of these persons may act in their own right, they may also request that a representative makes the representation to the licensing authority on their behalf. A representative may include a legal representative, a friend, a Member of Parliament, a Member of the Welsh Government, or a local ward or parish councillor who can all act in such a capacity [Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/publications/section-182-guidance-issued-under-the-licensing-act-2003)

8. The Licensing Authority are satisfied the representation is relevant to the licensing objectives and is not frivolous or vexatious.
9. James Taylor, Assistant General Manager at The Keys advised that they had invited local residents to an opening morning to discuss the variation application. A copy of the email sent by Mr Taylor is attached as Appendix 5
10. A Google street map and ariel view, showing the location of the premises, is attached at Appendix 6.

LEGISLATION AND POLICY CONSIDERATIONS

11. Members are respectfully reminded of the need to give due consideration to Stockton Borough Councils Licensing Policy Statement and Section 182 Revised Guidance issued in December 2023 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
- www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003
12. 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 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2012/22/section-1)

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

13. 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.

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. Pg 22.

In non-residential areas new or variation applications for licences to allow the sale of alcohol or the supply of late night refreshment beyond 3.00am will normally be refused, subject to relevant representations being received. Pg 22.

MEMBERS OPTIONS

14. 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.

15. Environmental Health and the local Councillor 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 - Keys Licence

Appendix 3 - Environmental Health Representation

Appendix 3a - Environmental Health Representation additional clarity

Appendix 4 - Councillor Sherris Representation

Appendix 5 - Google Maps

Assistant Director - Regulated Services And Transformation Marc Stephenson

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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.
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.
- Community Safety 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.
- Legal Implications:** Members should have regard to Human Rights Act when determining this application
- Human Rights Implications:** Stockton Borough Council Licensing Policy Statement and Licensing Act 2003 Section 182 Guidance
- Background Papers:** Councillor John Coulson
Councillor Dan Fagan
Councillor Andrew Sherris
- Ward(s) and Ward Councillors:**