

REPORT

**Meeting/
Decision
Maker(s)** Licensing Sub-Committee

Date: 4 August 2020

Report by: Gary Callum
Licensing Officer
☎ 643 6903

**Contact
Officer(s):** Gary Callum
Licensing Officer
☎ 643 6903

**Title of
Report:** Licensing Act 2003
Kork, 74 Whitley Road,
Whitley Bay,
NE26 2NE.

Ward(s): Whitley Bay

1.0 Summary / Purpose of Report

Licensing Sub-Committee

- 1.1 The Licensing Act 2003 (“The Act”) provides that, where representations have been received from a Responsible Authority or Other Parties in respect on an application for the variation of a Premises Licence, a hearing must be held to consider such applications, unless the parties and the Authority agree that a hearing can be dispensed with. Licensing Sub-Committees have therefore been established in accordance with the provisions of the Act for the purpose of hearing applications such as this.
- 1.2 The Sub-Committee is asked to consider and determine an application from Mr Shawn Darling-Cooper for the variation of a Premises Licence in relation to Kork, 74 Whitley Road, Whitley Bay, NE26 2NE (“The Premises”).
- 1.3 Mr Darling-Cooper has been invited to attend the meeting in support of his application. All persons making relevant representations have also been invited to attend.

1.4 Representations from Responsible Authorities and Other Persons

The application has been forwarded to the Chief Officer of Police, Fire Authority, Local Planning Authority, Environmental Health Authority, Health and Safety Enforcement Agency, Licensing Authority, Director of Public Health, Weights and Measures Authority, Home Office Immigration Enforcement and the North Tyneside Safeguarding Children Partnership (formerly the Local Safeguarding Children Board), with a view to any of these Responsible Authorities inspecting the premises if deemed appropriate by them and to enable them to comment on the application.

The application has been advertised at the premises, in a local newspaper and also, on the Council Website as prescribed.

There have been no representations received from any of the Responsible Authorities.

Representations have been received from other parties and are appended to this report at **Appendix 4**. A petition of 19 signatures against this application has also been received and the person who submitted this petition was issued with a Notice of Hearing.

A total of 342 e-mails of support to this application were also received via North Tyneside Council's public access portal, and of these, 12 representations were considered relevant to the licensing objectives, and have been issued with a Notice of Hearing.

1.5 Authority to make decision

In relation to an Application for the Variation of a Premises Licence, the Licensing Sub-Committee can, in accordance with section 35(4) of the Licensing Act 2003:

- Modify the conditions of the licence; or,
- Reject the whole or part of the application.

Once the Sub-Committee has reached a decision, the decision and reasons for the decision must be given in accordance with the Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations 2005.

2.0 Background

2.1 This report relates to an application for the Variation of an existing Premises Licence in respect of Kork, 74 Whitley Road, Whitley Bay, NE26 2NE

The current Premises Licence permits the following licensable activities and times:

Supply of Alcohol (for consumption **off** the premises only)

• Monday to Saturday	09.00 – 21.00
• Sunday	10.00 – 16.00

General Opening Times

• Monday to Saturday	09.00 – 21.00
• Sunday	10.00 – 16.00

2.2 The current licence is attached to the report at **Appendix 3**. The licence provides for the supply of alcohol for consumption **off** the premises only and does not permit the supply of alcohol for consumption **on** the Premises. The 'premises' is the area indicated at Annex 4 of the licence .

2.3 The Application for the variation of a Premises Licence is made under Section 34 of The Licensing Act 2003 and the Section of the Act dealing with the determination of such an application is Section 35.

2.4 Mr Darling-Cooper seeks to vary the licence by having included in the licence, the following days and times:-

Supply of Alcohol (for consumption **on** the premises)

• Every Day	12.00 – 22.00
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General Opening Times

• Monday to Saturday	09.00 – 22.00
• Sunday	10.00 – 22.00

Mr Darling -Cooper has also requested a seasonal variation to offer outside seating of up to 3 tables in the warmer months. These tables have been marked on the updated plan attached at **Appendix 2**

The sale of alcohol for consumption off the premises will remain the same times as outlined in paragraph 2.1 above.

2.5 A copy of the application for the variation of the Premises Licence is attached at **Appendix 1** and an updated plan of the premises and map of the area is attached at **Appendix 2**.

It may be noted from the application form that additional times for sale of alcohol are outlined in box 'J – Supply of Alcohol' and comments are also included below box L "Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking." The applicant has confirmed these entries were completed in error. The applicant has provided an explanation in an e-mail that is attached at **Appendix 6**.

2.6 If the licence is granted, this will be subject to Mandatory Conditions which are attached at **Appendix 5** of the report.

3.0 Promotion of Licensable Activities

The applicant has set out the further steps that he proposes to take to promote the licensing objectives as outlines within the operating schedule, details of which can be found within **Appendix 1**.

4.0 The Parties

The parties to the hearing will be;

1. The Applicant – Mr Darling-Cooper
2. Those Other Parties making relevant representations.

5.0 For consideration

The area for consideration by the Licensing Sub-Committee are:

- The application for the variation of a Premises Licence in relation to Kork, 74 Whitley Road, Whitley Bay, NE26 2NE

6.0 The North Tyneside Council Statement of Licensing Policy

The Sub-Committee's attention is drawn to the relevant part of the Policy – Section 10 Licensing Objectives and Section 6 – Premises Licences which includes reference to the variation of such licences. Section 13 – Cumulative Impact Policy and Assessment.

7.0 The Relevant Guidance under Section 182 Licensing Act 2003

The Sub-Committee's attention is drawn to the relevant parts of the Statutory Guidance issued under Section 182 of The Licensing Act 2003 – Chapter 2 The Licensing Objectives; Paragraph 8.50 – 8.77 concerning variations and Chapter 9 – Determining Applications and Chapter 14 – Statement of Licensing Policy in relation to Cumulative Impact.

8.0 Decision

The Sub-Committee is asked to determine the application in whatever way it sees fit.

9.0 Associated Papers

Appendix 1 – The application for the variation of a Premises Licence
Appendix 2 – Map of the area in which the premises is situated
Appendix 3 – Current Premises Licence
Appendix 4 – Relevant representations
Appendix 5- Mandatory Conditions
Appendix 6 – E-mail from Applicant

10.0 Background Information

The following background information has been considered in the compilation of this report and are available for inspection at the offices of the author of the report:

The Licensing Act 2003 and Regulations,
Guidance issued under Section 182 of The Licensing Act 2003,
North Tyneside Council's Statement of Licensing Policy,
North Tyneside Council's Cumulative Impact Assessment,
The Equality Act 2010.