

# REPORT

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

**Date:** 3 October 2022

**Report by:** Gary Callum  
Licensing Officer  
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**Title of  
Report:** Licensing Act 2003  
Cullercoats Coffee  
1 – 5 Countess Avenue  
Whitley Bay  
NE26 3PN

## **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 Cullercoats Coffee Group Ltd for the variation of a Premises Licence in relation to Cullercoats Coffee, (formerly Cottage Kitchen), 1 – 5 Countess Avenue, Whitley Bay, NE26 3PN (“The Premises”).
- 1.3** Mr Stonebanks, Director of Cullercoats Coffee Group Limited, has been invited to attend the meeting in support of his application. All persons making relevant representations have also been invited to attend.

## **Representations from Responsible Authorities and Other Persons**

- 1.4** 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.
- 1.5** The application has been advertised at the premises, in a local newspaper and also, on the Council Website as prescribed.
- 1.6** There have been no representations received from any of the Responsible Authorities.
- 1.7** Representations have, however, been received from other persons and are appended to this report at **Appendix 4**.

### **Authority to make decision**

- 1.8** 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 Cullercoats Coffee, 1 – 5 Countess Avenue, Whitley Bay, NE26 3PN.
- 2.2** The Premises current Premises Licence permits the following licensing activities and times:

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

• Tuesday to Saturday	11.00 – 22.30
• Sunday	12.00 – 22.00

### **General Opening Times**

• Tuesday to Saturday	09.00 – 22.30
• Sunday	10.00 – 22.00

### 3.0 Variation Application

3.1 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.

3.2 Cullercoats Coffee Group Ltd seeks to vary the licence by adding Monday to the Premises Licence, (not previously included) and amend the times for sales of alcohol Tuesday to Sunday as follows:-

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

• Monday	12.00 to 22.00 ( <i>not previously licensed</i> )
• Tuesday to Friday	12.00 to 22.00 ( <i>previously 11.00 to 22.30</i> )
• Saturday	12.00 to 23.00 ( <i>previously 11.00 to 22.30</i> )
• Sunday	12.00 to 22.00 ( <i>previously 10.00 to 22.00</i> )

#### General Opening Times

Cullercoats Coffee Group Ltd seeks to amend the general opening times as follows:-

• Monday	07.00 to 22.00 ( <i>not previously licensed</i> )
• Tuesday to Friday	07.00 to 22.00 ( <i>previously 09.00 to 22.30</i> )
• Saturday	07.00 to 23.00 ( <i>previously 09.00 to 22.30</i> )
• Sunday	07.00 to 22.00 ( <i>previously 10.00 to 22.00</i> )

3.3 A copy of the application for the variation of the Premises Licence is attached at **Appendix 1** and a map of the area is attached at **Appendix 2**.

3.4 A copy of the current Premises Licence is attached at **Appendix 3**.

### 4.0 Promotion of Licensable Activities

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

### 5.0 Planning Observation

5.1 The Local Planning Authority as a Responsible Authority have not submitted a representation in relation to the application. However, in view of the comments made in relation to planning regulations associated with the premises, the Local Planning Authority have provided the following observation;-

“1 - 5 Countess Avenue, which was granted planning permission for the change of use to a cafe via planning application 95/00065/FUL on 09.03.1995. Condition No.4 of 95/00065/FUL is relevant to the licensing application. This condition was attached to protect the residential amenity of adjoining and surrounding occupiers and is set out as follows: - No activities shall be carried out on any Sunday or Bank Holiday or between the hours of 6pm and 9am on any other day. This condition was re-attached

to planning permission 11/00732/FUL on 29.06.2011, via which permission was granted for an extension to the rear yard. Condition No.5 of 11/00732/FUL again restricted the opening hours to the same as 95/00065/FUL.

A further planning application for a pergola (20/01999/FUL) was approved on 17.02.2021. An informative was attached to the planning permission, which states the following: 2 - The applicant is reminded that the host premises must be operated in accordance with all conditions attached to previous planning permissions. Should the applicant wish to operate in a different manner, i.e. increased opening hours, permission should be sought via the submission of a S73 application to vary the relevant condition

The Local Planning Authority can confirm that an application to vary the opening hours has not been submitted or approved. Therefore, the opening hours set out in the license application: 07:00 to 22:00 Monday to Friday and Sundays, and 07:00 to 23:00 hours, are not in accordance with the conditions attached to the planning approvals for the site. The applicant is invited to submit an application to vary the relevant condition, which will then be considered by the Local Planning Authority in accordance with relevant national and local planning policy and consultation with the public.”

## **6.0 The Parties**

6.1 The parties to the hearing will be;

1. The Applicant – Cullercoats Coffee Group Limited
2. Those Other Parties making relevant representations.

## **7.0 For consideration**

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

- The application for the variation of a Premises Licence in relation to Cullercoats Coffee, 1 – 5 Countess Avenue, Whitley Bay, NE26 3PN.

## **8.0 The North Tyneside Council Statement of Licensing Policy**

8.1 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.

## **9.0 The Relevant Guidance under Section 182 Licensing Act 2003**

9.1 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.

## **10.0 Decision**

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

## **11.0 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

## **12.0 Background Information**

**12.1** 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.