

DURHAM COUNTY COUNCIL

Statutory Licensing Sub-Committee

At a meeting of the **Statutory Licensing Sub-Committee** held in the **Council Chamber, County Hall, Durham** on **Tuesday 21 May 2024** at **1.30pm**

Present:

Councillor C Hampson in the Chair

Members of the Sub-Committee:

Councillors R Adcock-Forster, C Hunt and M Wilson

Also Present:

V Evans - Licensing Officer

H Johnson - Licensing Team Leader

F Swift - Council's Solicitor

R Botkai, Winckworth Sherwood - Solicitor for the Applicant

K Thirumalai, SRJ Energy Ltd - Applicant

M Barker – Other Person

C Leonard – Other Person

A Roper – Other Person

1 Apologies for Absence

Apologies for absence were received from Councillor McLean.

2 Substitute Members

No substitute members were present.

3 Minutes

The minutes of the meetings held on 22 June 2023, 13 July 2023 and 31 July 2023 were agreed as correct records and signed by the Chair.

4 Declarations of Interest

No interests were declared.

5 Application for the Grant of a Premises Licence - The Beehive, Salter's Lane, Fishburn, Stockton on Tees, TS21 4AS.

The Licensing Team Leader presented the report of the Corporate Director of Neighbourhoods and Climate Change which requested the consideration and determination of an application for the grant of a premises licence for The Beehive, Salter's Lane, Fishburn, Stockton-on-Tees TS21 4AS which was submitted by the Applicant, Kavitha Thirumalai of SRJ Energy on 28 March 2024 (for copy of report, see file of minutes).

The Licensing Team Leader informed the Sub-Committee that following mediation with the Local Weights and Measures Authority, the Applicant agreed to amend the condition proposed within the operating schedule in relation to the training records to state 'Training records will be retained at the premises for a minimum period of 12 months from the date of training'.

Seven representations opposing the application were received from other persons which were attached to the report at appendix 4.

The Licensing Team Leader concluded by outlining the options available to the Sub-Committee.

No questions were raised in relation to the licensing report.

Objectors to the application were invited to address the Sub-Committee.

Ms C Leonard referred to her letter dated 17 April 2024 and stated her objection to the application which, in her view, did not promote the licensing objective of the protection of children from harm. The objector explained that the proximity of the application premises to Fishburn Primary School would be detrimental to the welfare of children, as, should the application be granted, it would lead to young children being exposed to sales of alcohol, cigarettes and vapes as they arrive at and leave school. Ms Leonard added that public safety was also a concern for her as the road adjacent to the premises suffered from congestion during school drop-off and pick-up times and the granting of the application would further exacerbate the issues. Ms Leonard highlighted that 280 residents of Fishburn village had signed a petition against the planning application for the change of use of the premises, formerly a pub, to a convenience store. Concluding her presentation, Ms Leonard also spoke of the importance of the protection of public health which was increasingly subject to media campaigns, with an emphasis on the prevalence of alcohol and smoking related diseases and the cost, not only to public health, but also to the NHS.

Ms M Barker introduced herself to the Sub-Committee as Vice-Chair of Fishburn Parish Council and Vice-Chair of Governors of Fishburn Primary School. Ms Barker outlined her concerns for the safety of children and she pointed out that the school was in the immediate vicinity of the application premises and the entrance to the store was on the main walking route used by young children of an impressionable age, on their way to and from school. Ms Barker pointed out that 52% of pupils at the school were eligible for free school meals and therefore were already at a disadvantage. In addition, Ms Barker pointed out that the area suffered from teenage anti-social behaviour due to alcohol and the granting of the licence would place additional strain on public and police services.

Ms A Roper spoke in objection to the application and she endorsed the comments of the previous objectors, adding that her primary concern was the safety of children.

No questions were raised in relation to the submissions of the objectors. The Chair then invited Applicant's Solicitor, Mr R Botkai, Solicitor for the Applicant to make representations on behalf of Mrs K Thirumalai.

The Applicant's Solicitor introduced the Applicant, Ms K Thirumalai of SRJ Energy Ltd and explained the applicant was an experienced business owner, with five other stores; three petrol stations and two convenience stores. The Solicitor commented that many of the points raised by the persons in objection to the application, had been addressed through the planning application for the change of use of the premises, which was a separate matter.

Referring to the objection on the grounds of the proximity of the premises to the school, the Applicant's Solicitor pointed out that it was not unusual as many schools have convenience stores in close proximity.

Addressing the issue of traffic congestion, the Solicitor explained the premises had a large car park to the rear, therefore the granting of the application should not cause further issues. The Solicitor for the Applicant acknowledged that there were other premises licensed to sell alcohol in the vicinity, however, he clarified that 'need' for a convenience store was not a licensing factor.

The Solicitor highlighted the activities and hours requested were within the licensing policy and whilst the store opening hour requested was 06:00hrs, the Applicant did not expect alcohol sales to take place at that time. The Applicant intended to install CCTV throughout the store which will employ four full-time and two part-time staff. Spirits and vapes would be stored behind the counter and a Challenge 25 policy would be implemented.

The Solicitor for the Applicant informed the Sub-Committee that he had visited other convenience stores in the area and he reported that the Co-op's opening times were 06:00hrs to 23:00hrs and it sold a responsible range of alcohol and only one high strength cider. The Go Local store's opening hours were 06:15hrs to 22:00hrs and it sold various high strength beers, lagers and ciders.

The Applicant's Solicitor proposed that the following conditions be added to the application:

- a) no sales of single cans of beer, lager and cider will be permitted;
- b) no sales of beer, lager and cider over 6.5%ABV, save for premium and craft products, will be permitted.

The Solicitor drew the Sub-Committee's attention to the robust operating schedule submitted by the Applicant and that during the consultation period responses were received from responsible authorities including Public Health, Durham Safeguarding Children Partnership and Durham Constabulary, all confirming that they had no comments to make in respect of the application. The Solicitor highlighted that licensing legislation was largely permissive and the Thwaites case established had that 'real evidence' must be presented to support the reason for imposing licensing conditions.

The Chair invited questions in respect of the Applicant's representation.

In response to a question from an objector, the Licensing Team Leader clarified that, if the proposed conditions were agreed, they would be attached to the premises licence and therefore they would be enforceable conditions.

In response to a question from the Licensing Team Leader, the Solicitor clarified that CCTV cameras would be placed inside and outside the store, including the car park.

The objectors asked how the Applicant proposed to manage the store, alongside her other stores. The Solicitor for the Applicant explained that managers were appointed for each store, all of whom were trained. A minimum of two members of staff would be present in the store at any one time. The Solicitor informed the objectors that he would be happy to provide contact details for himself and the Applicant, if they would like further information on the plans for the day to day operation of the store.

Replying to a question from the objectors as to how alcohol would be displayed and promoted in the store, the Solicitor for the Applicant clarified that spirits and tobacco would be placed behind the counter and there were no plans to advertise alcohol in the store window.

Ms C Leonard raised her concerns that cars speeding though the village had caused accidents on the zebra crossing. The Solicitor for the Applicant responded that the matters had been addressed through the planning process however the Applicant appreciated the objectors' concerns.

The Chair then invited the parties to sum-up.

The objectors had no further comments to make.

The Applicant's Solicitor pointed out that to leave the premises derelict would not be an effective use of land and it may attract anti-social behaviour. Furthermore, the Applicant's intention was to retain the building's heritage and improve the environment. The Applicant was considerate of the school and the representations made in objection to the application and she would appreciate the opportunity to build a relationship with the school's governing body and the community.

In conclusion, the Applicant's solicitor gave his view that there was no real evidence to support the view that the application should be refused and he respectfully requested the Sub-Committee to grant the application with the addition of the two conditions proposed.

The Chair confirmed the three members who would make the determination were herself, Councillor Adcock-Forster and Councillor Wilson.

At approximately 2.05pm the Sub-Committee **Resolved** to retire to deliberate the application in private and Councillor Hunt left the meeting.

At 2.35pm the Chair delivered the decision of the Sub-Committee. In reaching their decision the Sub-Committee took into account the report of the Licensing Team Leader and the oral and written representations of the parties. The Sub-Committee also considered the Council's Statement of Licensing Policy and s.182 guidance issued by the Secretary of State.

The Sub-Committee

RESOLVED:

To grant the licence with the addition of the conditions proposed by the Applicant as follows:

- a) no sales of single cans of beer, lager and cider will be permitted;
- b) no sales of beer, lager and cider over 6.5%ABV, save for premium and craft products, will be permitted.