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## GATESHEAD METROPOLITAN BOROUGH COUNCIL

### LICENSING SUB COMMITTEE MEETING

Thursday, 6 February 2025

**PRESENT:** Councillor : S Potts  
Councillor(s): H Kelly and M Ord

#### **LSC3 APPLICATION FOR PREMISES LICENCE**

##### RESOLVED:

- i. That the decision of the Committee as per the attached Summary of Decision as an Appendix to this minute is approved.

**Chair.....**

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**GATESHEAD COUNCIL**  
**LICENSING AUTHORITY****SUMMARY OF DECISION OF LICENSING SUB-COMMITTEE**

<b>Name of Premises:</b>	Tony's Fish Bar
<b>Address :</b>	275 High Street, Gateshead NE8 1EP
<b>Applicant :</b>	Kiran Chippy Ltd
<b>Date of Hearing :</b>	06 February 2025
<b>Type of Hearing :</b>	Application for the grant of a Premises Licence

**The Sub Committee has decided as follows:**

To refuse the application

**Reasons**

The Sub Committee had regard to the Licensing Officer's report dated 29 January 2025, together with the additional supplementary agenda documentation circulated in advance of the hearing, and the verbal representations made at the hearing by –

- The Applicant Kiran Chippy Ltd (represented by Mr Tim Robson of TJR Licensing)
- Hayley Hebb/Sgt Askwith (on behalf of Northumbria Police acting as a responsible authority)
- Tony Dunn (on behalf of the Licensing Authority acting as a responsible authority).
- Julia Sharp (on behalf of Public Health acting as a responsible authority)

The Sub Committee heard submissions from Mr Robson –

- That this is an application for a new premises licence, submitted by Mr and Mrs Singh on behalf of Kiran Chippy Ltd, who are both the operators and directors of the business. The business is family run and has been operating for 2 years, with the operators working hard to take orders and work with reputable delivery companies such as Deliveroo and Just Eat.

- That Mr and Mrs Singh do not drink alcohol themselves and do not agree with alcohol, but that in this day and age it is part and partial of the economic demands on society. The shop is further struggling financially and has recently been required to shut earlier than its usual opening times due to so little trade. On Fridays and Saturdays, the shop is currently opening until around 10:30pm but the trade is not there. Having the licence granted could make the difference between having a successful business and having to move on.
- That in submitting the application, the applicant hopes to allow the sale of alcohol by retail either at the shop premises directly or by using online delivery services. It was clarified for the avoidance of doubt that the application is amended to remove the application for the licensable activity of late night refreshment and it is the sale off alcohol off the premises only which falls to be considered.
- That the operators live above the shop, which is their home, and the last thing they want to see from the addition of any alcohol sales at their business is disorderly conduct. They are not aware of any current issues associated with the shop regarding disorderly conduct and it is hoped that the submissions put before the Sub Committee will alleviate any such fears. The shop is often used by local policemen during their lunch breaks.
- That Mr Robson (who has served several years in Durham Constabulary working solely in licensing legislation) has delivered training to the operators on how to deal with conflict management and anti-social behaviour associated with alcohol. The operators are also aware of the Public Space Protection Order (PSPO) in place, together with the importance of the same, and if the application were to be granted, signs would be put up in the shop to advise customers of the PSPO outside and to show staff are trained on this.
- That Mr Singh is the proposed DPS and Mr Robson is fully intent on providing Mr Singh and his wife with further training and teaching.
- That the applicant has received and considered the evidence from the responsible authorities to include the supplementary statements from Northumbria Police in advance of the hearing.
- That the applicant has proposed a number of conditions to promote the licensing objectives to include:
  - A challenge 25 Policy on which staff will be trained
  - CCTV covering the premises
  - Regular Training
  - Notification to customers of the PSPO in place
  - That alcohol will only be sold ancillary to food – and with a proposed minimum sum requiring food orders to total £10.00 or more before alcohol will be sold.
- That other premises in the locality, including shops such as Tesco, essentially offer a takeaway service, and alcohol can be bought alongside a sandwich and taken away from the premises. Tesco does not have any similar provision in place to those

proposed by the applicant with respect to notifying customers they cannot drink alcohol outside or the PSPO in place.

- There are also a number of premises that sell alcohol on nearby Jackson Street and within the locality of Tesco Superstore, for which Mr Robson has identified and provided statistics relating to criminal behaviour from online service StreetCheck. Such records of criminal behaviour are lower in the immediate vicinity of the applicant's premises in comparison to areas around Tesco and Jackson Street.
- That in view of the fact the amended application no longer seeks to provide late night refreshment, Section 8.23 of the Council's Statement of Licensing Policy should be disregarded as a reason to refuse the application. The shop closes at 10:00pm Monday to Thursday and 10:30pm on Fridays and Saturdays and there is no late night element.
- That if the application is granted the alcohol sold will only be served with food and will not be spirits. All alcohol will be behind a counter and the alcohol sold will comprise of wines, beers, lagers, and ciders. The applicant is prepared to look at a maximum ABV limit on any cans/bottle to be sold.
- That the applicant would seek to question why the Police as a responsible authority remain concerned, and that the evidence presented by the Police prior to the hearing did not confirm the exact time/location of any previous incidents in Gateshead Town Centre or the specific types of issues found.
- That the applicant's premises is a very small shop and would have a negligible impact on the wider area. All training documentation proposed will further be diligently followed and has already been signed.
- That CCTV with audio coverage could be put in place to cover the till area to evidence the sale of alcohol is ancillary to food orders of £10.00 or over only.
- That if the application is granted a delivery service would be offered through reputable third-party delivery companies, who would bear responsibility for their own age verification checks at the time of delivery, and if they are not satisfied bring the order back to the applicant's premises. The applicant would have no control over the checks completed at the time of the delivery when instructing a third-party agent.

The Sub Committee heard submissions from Hayley Hebb and Sgt Askwith for Northumbria Police –

- That there have clearly been some amendments and tweaks to the application since it was submitted and that there were aspects which seemed to the Police to lack clarity.
- That with the consent of all parties, further information could be offered at the hearing regarding the crime statistics detailed in the Community Support Officer's statement as annexed to the statement of Sgt Askwith, and as also provided by Mr Robson on behalf of the applicant.

- That Sgt Askwith started his current role in December 2024 and has therefore looked at the application with a fresh perspective. Prior to his current role in the Neighbourhood Policing Team, he has experience in response policing and a background in major investigations to include homicide, domestic abuse and child abuse.
- On reviewing the dates and locations of prior incidents referred to, and on looking at a snapshot of 15 incidents; the incidents referred to largely occurred within daytime hours, with the latest one being at 8:20pm in the evening, and with incidents occurring at various times throughout the afternoon/early evening. The areas involved in the incidents were Trinity Square (which is just around the corner from the applicant's premises), High Street (which is the location of the applicant's premises), High West Street, and Jackson Street. It was confirmed that around 1/3 of the incidents noted were linked to alcohol consumption.
- There is currently a Northumbria Police operation in place which is running between December 2024 and March 2025, Operation Basildon, which is research driven and focuses on targeting alcohol usage, alcohol abuse, and drug abuse, in the predominant area of Gateshead Town Centre. After the operation has finished it will be reviewed to see if crime and disorder has reduced in the vicinity.
- On a spot check of alcohol consumption near to the applicant's premises, likely within around 200m of the Fish Bar, alcohol consumption was identified on a park bench at the junction which leads to the bus interchange, on Saturday 01 February 2025. This is the location referred to in the statement of Community Support Officer Hetherington as High West Street. Additionally, it is noted that across the road from the applicant's premises there is an area of public seating.
- That the representation has been made on the basis of an assessment of risk to the general area and the belief that anti-social behaviour arises where alcohol is being served. The objection is therefore based on the specific location and the conditions proposed do not change the officer's view or concerns.
- Sgt Askwith confirmed he is satisfied that the applicant would actively manage the situation within the shop but considers that people leaving the shop with open food would also be tempted to drink alcohol when they leave the premises, which is in contravention of the PSPO and could lead to an increase in crime and disorder.
- That it is believed the current statistics only show less crime in the area of High Street, in comparison with some surrounding areas at the present time, due to the fact less alcohol licensed premises are present on this street in comparison to nearby Jackson Street etc. It is believed there is a direct correlation between crime and disorder and the area in which alcohol is sold and consumed.
- That an additional outlet selling alcohol and food together is a concern for crime and disorder and that no other "takeaway" premises in Gateshead Town Centre are licensed to sell alcohol.

- That the amendments to the application to remove the element of late night refreshment do not remove Sgt Askwith's concerns and the objection is very much based on the area and the risks which may arise when customers leave the shop.

The Sub Committee heard submissions from Tony Dunn for the Licensing Authority –

- That the representation from the Licensing Authority was initially based on the fact that the application was not in line with the Council's Statement of Licensing Policy at 8.23, but it is now known that the application for late night refreshment has been withdrawn and the application amended.
- That the Licensing Authority did not consider that the applicant's original operating schedule outlined clearly how they would deal with crime and disorder and there remains a concern that allowing alcohol sales with takeaway food will be in contravention of the PSPO in place.

The Sub Committee heard submissions from Julia Sharp for Public Health –

- That it is appreciated what the applicant is trying to do, and that the applicant is trying to put every measure in place to alleviate any problems. There is still, however, a concern that the grant of a licence will suggest to the public that consuming alcohol on the streets with takeaway food is allowed.
- That some issues seen in respect of alcohol misuse occur in the daytime and the service is trying to put people from the recovery community on the streets to assist matters. Encouraging the consumption of alcohol alongside open food goes against what the service is trying to do.
- The visibility and accessibility to alcohol, and the normalisation of alcohol being present with family food as a takeaway offer, has an impact on young people in the area.

Summing up the Police representations, Sgt Askwith stated that his objection is based on the risk of harm to the community and the impact the granting of the licence would likely have on the people in the area, together with how the police would manage the PSPO and crime and disorder. The snapshots provided from Gateshead Town Centre back up his fears that more people will be encouraged to eat and drink alcohol in the immediate area.

Summing up the application, Mr Robson stated the applicant does not feel they can do anything more, and they have proposed robust measures with regard to the four licensing objectives. There will be continued training and there will be robust systems in place with minimum monetary sums, and ensuring the PSPO is promoted around the area. The applicant has further been open and honest and showed what they are trying to do, and it is believed they have put everything in place to promote the licensing objectives.

The Sub-Committee then received legal advice in open session.

The Sub-Committee had due regard to –

- the Licensing Act 2003
- the Home Office Guidance issued under Section 182 of the Act, most recently updated in December 2023
- the Council's Statement of Licensing Policy
- the application itself
- the relevant representations received from the responsible authorities; and
- the submissions made by the parties at the hearing.

The Sub-Committee was mindful that its duty under the Act is to carry out its functions with a view to promoting the Licensing Objectives of –

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance; and
- the protection of children from harm.

The Sub-Committee had regard to section 18 of the Act, and as such disregarded any information which it did not consider to be, “about the likely effect of the grant of the application on the promotion of the licensing objectives”.

The Sub Committee were mindful of the Judgment in the case of R (on the application of Hope & Glory Public House Ltd) v (1) City of Westminster Magistrates' Court & Ors [2011] EWCA Civ 31 in which Lord Toulson stated –

“Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on... They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location.”

The Sub Committee noted the Judgment of Mr Justice Jay in the case of East Lindsey District Council v Hanif (t/a Zara's) (2016) EWHC 1265 (Admin) with regard to the approach to be taken to determining the appropriate and proportionate action in light of the salient Licensing Objectives; and in particular their approach should involve –

- consideration of the antecedent facts; and



- a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence.

The Sub-Committee had regard to the case of Daniel Thwaites plc v Wirral Borough Magistrates Court (2008) EWHC 838 (Admin) and Meade v Brighton Corporation (1968) 67 LGR 289, in particular –

“[D]rawing on local knowledge, at least the local knowledge of local licensing authorities, is an important feature of the Act’s approach [however Committees] must measure their own views against the evidence presented to them. In some cases, the evidence presented will require them to adjust their own impression. This is particularly likely to be so where it is given by a Responsible Authority such as the police.”

The Sub-Committee had regard to the Home Office Guidance, including –

- paragraph 8.42 – “Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:
  - the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate
  - any risk posed to the local area by the applicants’ proposed licensable activities; and
  - any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks”
- paragraph 8.43 – “Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact assessment), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy”
- paragraph 9.38 – “In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
  - the steps that are appropriate to promote the licensing objectives
  - the representations (including supporting information) presented by all the parties
  - this Guidance

- its own statement of licensing policy”
- paragraph 9.43 – “The Authority’s determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.”

The Sub-Committee further had regard to the fact that when considering matters of crime and disorder, the Home Office Guidance states:

- paragraph 2.1 – “Licensing authorities should look to the police as the main source of advice on crime and disorder...”
- paragraph 9.12 – “Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority’s main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should usually therefore be the licensing authority’s main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority’s interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing”.

The Sub-Committee had regard to paragraph 6.2 of the Council’s Statement of Licensing Policy, noting that –

“the Licensing Authority considers –

- the effective and responsible management of premises
- instruction, training and supervision of staff; and
- the adoption of best practice

to be the most important control measures for the achievement of all the licensing objectives.”

The Sub-Committee also bore in mind paragraph 8.23 of the Council’s Statement of Licensing Policy, as referred to in the hearing, which provides reference to the sale of alcohol from “takeaway premises” that are licensed for late night refreshment and states that:

“The Licensing Authority will generally not permit the sale of alcohol from ‘takeaway’ premises that are licensed for late night refreshment, due to the inherent potential for late night alcohol fuelled crime, disorder and anti-social behaviour and the difficulties of addressing such behaviour where the consumption of the alcohol and associated

behaviour takes place away from the premises themselves, often in residential areas. Applicants seeking approval to sell alcohol from 'takeaway' premises will need to clearly demonstrate how they will ensure that their activities will not lead to such problems"

The Sub-Committee further had regard to the fact that the Statement of Licensing Policy contains no additional specific provisions in relation to the sale of alcohol from takeaway premises which are not licensed for late night refreshment.

With regards to the delivery of alcohol from licensed premises, the Sub-Committee had regard to the following sections of the Council's Statement of Licensing Policy:

Paragraph 8.19 –

"It is expected that applicants who intend to sell or supply alcohol by delivery or collection of prepaid orders will include provision in their operating schedules to set out how they will ensure that they do not:

- serve alcohol to a person who appears to be drunk
- serve alcohol to a person who it is believed will pass it on to persons under 18 years old
- take payment for the alcohol at the place where it is served – sales should be pre-paid only"

Paragraph 8.20 –

"It is also expected that applicants will:

- operate an age verification policy of at least a Challenge 25 standard
- only deliver to residential addresses
- only stock delivery vehicles with alcohol that has been pre-ordered
- verify that the person that the alcohol is served to is the person who has ordered it
- only make sales where the purchase price is at least £25 and/or the minimum unit price of the alcohol is not less than £1 per unit."

The Sub-Committee had regard to paragraph 1.12 of the Home Office Guidance which states that –

"...A licensing authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives..."

The Sub-Committee were mindful in considering all evidence heard, that any hearsay evidence is admissible within the licensing hearing, but that such evidence inherently carries less weight than direct evidence provided by the parties.

The Sub-Committee determined having heard the evidence provided by all parties that it was their belief that if the licence were to be granted, there was a likelihood of increased crime and disorder arising in the locality of the premises.

The Sub-Committee considered whether there were any other conditions or restrictions that could appropriately be imposed that would address their concerns. They found however that due to the nature of the premises and their respective location, there were no measures that were appropriate that would adequately address their concerns. In those circumstances, the Sub-Committee determined that it was appropriate to refuse the application.

The Sub-Committee noted that in reaching the decision to refuse the licence it was not critical of the Applicant's proposed management arrangements for the premises.

### **Right of appeal**

Should the Applicant be aggrieved by the Sub Committee's decision, a right of appeal to the Magistrates' Court exists pursuant to section 181 and paragraph 2(1)(a) of Schedule 5 of the Act.

Any appeal is to be brought before Gateshead Magistrates' Court within 21 days of the date of notification of the decision.

*In reaching this decision the Sub Committee has been persuaded by the individual circumstances of this Application and does not intend to create a general exception to its Policy or to create a precedent.*

**Dated : 06 February 2025**