

**Licensing Sub-Committee  
Wednesday, 9 August 2023**

**Present:** Councillor Harris, Councillor Mannion, Councillor Powling,

**Substitutes:** None

**91. Appointment of Chairman**

*RESOLVED* that: Councillor Harris be appointed Chairman for the Sub-Committee meeting.

**92. Variation of a Premises Licence – 59-61 High Street, Wivenhoe**

Sarah White, Licensing Team Leader, attended the meeting to introduce the report. The Sub-Committee heard that an application to vary a premises licence held by Mrs Yogaratnam had been received in relation to the premises located at 59-61 High Street, Wivenhoe, and the proposed variation to the hours during which licensable activities could be carried out were set out in the report before the Sub-Committee. The application had attracted a single representation which objected to the proposed variation, and which had been made by the Wivenhoe Society. Details of the representation were contained in the Officer's report. The Licensing Team Leader drew the attention of the Sub-Committee to statutory guidance issued under S.182 of the Licensing Act 2003, which stated that shops should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet was open for shopping unless there were good reasons, based on the licensing objectives, for restricting those hours.

Mr Yogaratnam was the son of the applicant and attended the hearing to represent her. The Sub-Committee heard that the application to vary the licence sought to extend the times during which the premises could sell alcohol to 7.00am to 11.00pm Monday to Saturday, and to 9.00am to 11.00pm on Sundays. The shop was currently open every day between the hours of 7.00am and 10.00pm, and alcohol was sold from midday until the shop closed. The premises licence had been granted approximately 1 year ago, and there had been no issues since that time. A refusals log had been created to detail incidents when the sale of alcohol had been declined, however, there had been no need to use the log in the last year as all customers had been very respectful of the shop. The fact that there had been no issues with the shop had provided encouragement to the licence holder to apply for the proposed variation, and had there been any problems associated with the sale of alcohol at the premises, then the application would not have been made. Lots of customers of the

shop had asked whether it was possible to buy alcohol earlier in the day. No anti-social behaviour had been associated with the shop, and most of the customers were regular visitors and known by name. Other shops and bars in the area sold alcohol at earlier times, and the variation would allow this premises to sell alcohol during the hours that it was open for business.

In response to questions from the Sub-Committee, Mr Yogaratnam confirmed that the clientele of the shop was mixed, and included the elderly as well as commuters who stopped at the shop on their way to and from work. It was intended to open the shop until later in the day, in line with the proposed hours for the sale of alcohol, and this would remove the need to have to decline to sell customers alcohol with their general shopping at certain times of the day.

Turning to the contents of the representation which had been received, the Sub-Committee discussed the anti-social behaviour which it had been suggested was associated with the premises; was the applicant aware of this? Mr Yogaratnam acknowledged the representation which had been made, but explained that he had been made aware of anti-social behaviour issues in the area which had happened long before the shop had opened. The pictures which had been provided in support of the representation showing littering and vandalism were not near to the shop and could not be linked to its customers - many other premises in the area sold alcohol for consumption either on or off the premises. Closed circuit television cameras had been installed in the shop, and the applicant would co-operate fully with any investigation requiring footage from the cameras to be released. The applicant considered that the Wivenhoe community had welcomed the opening of the shop, and all local residents had been extremely kind to the applicant and her family.

The Licensing Team Leader confirmed that Essex Police had not made any representations in respect of the application, and had not raised any concerns in respect of the shop.

Rebekah Straughan, Legal Advisor to the Sub-Committee, reminded it that its decision should be based on the evidence which was before it, in conjunction with the Council's own Statement of Licensing Policy, and the relevant statutory guidance.

*RESOLVED* that: the application to vary the premises licence in respect of premises located at 59-61 High Street, Wivenhoe, Essex, CO7 9AZ, be granted on the terms applied for.

### **Reasons for the decision**

In reaching its decision, the Sub-Committee carefully considered the information which had been placed before it as part of the application, including the representation which had been made by the Wivenhoe Society in writing.

The Sub-Committee noted the concerns that had been raised with regard to alcohol related antisocial behaviour which had occurred in the area, but accepted that there

was no evidence that this behaviour could be attributed to this specific premises, which had not been the subject of any complaints since it had opened. The Sub-Committee was assured by the steps which the premises licence holder had taken to uphold the licensing objectives, including the installation of CCTV cameras and the maintenance of a log of any attempted purchases of age restricted products.

The Sub-Committee paid particular attention to the Statutory Guidance published in accordance with Section 182 of the Licensing Act 2003, which indicated that shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

### **93. Exclusion of the Public (not Scrutiny or Executive)**

*RESOLVED* that: In accordance with Section 100A(4) of the Local Government Act 1972, the public, including the press, be excluded from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).