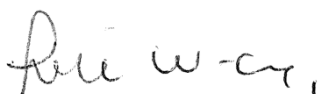


Date of issue: Wednesday 28<sup>th</sup> October 2020

<b>MEETING:</b>	<b>LICENSING SUB-COMMITTEE</b> (Councillors S Parmar (Chair), Dhaliwal and Strutton)
<b>DATE AND TIME:</b>	THURSDAY, 5TH NOVEMBER, 2020 AT 10.30 AM
<b>VENUE:</b>	VIRTUAL MEETING
<b>DEMOCRATIC SERVICES OFFICER: (for all enquiries)</b>	SHABANA KAUSER 07821 811 259

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



**JOSIE WRAGG**  
Chief Executive

AGENDA

PART I

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
	Apologies for absence.		
	<u>CONSTITUTIONAL MATTERS</u>		
1.	Declarations of Interest  <i>All Members who believe they have a Disclosable Pecuniary or other Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Section 4 paragraph 4.6 of the Councillors' Code of Conduct, leave the meeting while the matter is discussed.</i>	-	-
2.	Guidance on Predetermination/ Predisposition – To Note	1 – 2	-

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
3.	Minutes of the Last Meeting held on 28th September 2020	3 – 8	-

LICENSING ISSUES

4.	Exclusion of the Press and Public	-	-
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It is recommended that the press and public be excluded from the remainder of the meeting as the items to be considered contain exempt information relating to individuals as defined in Paragraphs 1 and 2 of Part I of Schedule 12A to the Local Government Act 1972.

**PART II**

*This 'General' Licensing Sub-Committee is convening to hear and decide licensing matters other than those arising under the Licensing Act 2003 and Gambling Act 2005. This includes (amongst others) applications for hackney carriage/private hire drivers' licences, hackney carriage/private hire vehicle licences and street trading consents.*

5.	Revocation/Suspension of a Personal Licence	9 – 24	-
6.	Private Hire Driver Conduct Hearing (Appellant Reference 04-19)	25 – 40	-

**Press and Public**

This meeting will be held remotely in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. Part I of this meeting will be live streamed as required by the regulations. The press and public can access the meeting from the following link (by selecting the meeting you wish to view):

<http://www.slough.gov.uk/moderngov/mgCalendarMonthView.aspx?GL=1&bcr=1>

Please note that the meeting may be recorded. By participating in the meeting by audio and/or video you are giving consent to being recorded and acknowledge that the recording will be in the public domain.

The press and public will not be able to view any matters considered during Part II of the agenda.



## **PREDETERMINATION/PREDISPOSITION - GUIDANCE**

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in “quasi judicial” decisions in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

### Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

### Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased’. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

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**Licensing Sub-Committee – Meeting held on Monday, 28th September, 2020.**

**Present:-** Councillors Davis (Chair), D Parmar and Strutton

**Officers Present:-** Mrs Kauser (Democratic Services), Mr Lucas (Legal Services) and Mrs Rumney (Licensing)

**PART 1**

**1. Declarations of Interest**

None were received.

**2. Guidance on Predetermination/ Predisposition - To Note**

Members confirmed that they had read and understood the guidance on predetermination and predisposition.

**3. Minutes of the Last Meeting held on 12th March 2020**

**Resolved** – That the minutes of the meeting held on 12<sup>th</sup> March 2020 be approved as a correct record.

**4. Application for Premises Licence - Akaya Lounge, 307-309 High Street, Slough, SL1 1BD**

The Democratic Services Officer (DSO) informed Sub-Committee Members that although Mr Ali, the applicant, had indicated that he would be in attendance; he was not present. It was noted that Mr Ali had attended a virtual meeting test session which was held on 23<sup>rd</sup> September 2020. Prior to commencement of the hearing, the DSO had attempted to contact Mr Ali several times and in the absence of any communication to either the DSO or the Licensing Officer, the Sub-Committee were of the view that the application would be considered. The meeting, scheduled to begin at 10.30am, instead began at 10.45am.

The Chair explained the procedure for the hearing and confirmed that all parties present had received a copy of the paperwork.

**Presentation by the Senior Licensing Officer**

Ms Rumney explained that the Premises had been in breach of the Coronavirus Regulations when the Police attended on 31<sup>st</sup> May 2020. It was noted that the Premises may have been carrying out licensable activities without authorisation i.e. there was no premises licence in effect nor was there a Temporary Event Notice.

It was noted that the Applicant had agreed to all conditions proposed by the Police and that applications made to Planning to amend the hour the Premises may be open had been refused or withdrawn.

## **Licensing Sub-Committee - 28.09.20**

In respect of current Coronavirus Regulations, Ms Rumney explained that the Sub-Committee could grant a licence until whatever time they considered appropriate, but that any earlier closing time imposed by the Regulations would take precedence. The similar disparity between the Licensing and Planning regimes was also clarified.

### **Representations by Thames Valley Police**

On behalf of Thames Valley Police Ms Debie Pearmain explained that agreement had been reached between the Applicant and TVP as to the conditions that would be included on the Licence. The Sub-Committee also noted that you had agreed to an earlier closing time and finishing time for licensable activities.

However, notwithstanding the agreement that had been reached, TVP still had concerns about how the Premises would be managed and run given the events when Police had attended on 31 May 2020 and the warrant obtained by the Council on 7<sup>th</sup> February 2020 to enter the premises and seize all noise making equipment.

### **Representations by Neighbourhood Enforcement**

The Sub-Committee heard from Ms Natalie Worley and Ms Sarah Stefano on behalf of the Neighbourhood Enforcement Team ("NET").

Ms Worley explained that their involvement had been due to noise at the rear of the Premises, in the outside shisha area. Complaints regarding loud noise emanating from the rear of the premises were received on 16<sup>th</sup>, 20<sup>th</sup> and 24<sup>th</sup> December 2019. A further noise complaint was received on 18<sup>th</sup> January 2020. A Noise Abatement Notice was issued on 31<sup>st</sup> January 2020. Following a noise complaint by local residents on 1<sup>st</sup> February 2020, the NET obtained a warrant from Slough Magistrates Court and entered the Premises on 7<sup>th</sup> February 2020 seizing all the speakers from the outside seating area of the Premises.

It was brought to Members' attention that there was no enclosed outside space and that to comply with smoking related legislation; the area was required to be 50% open. It was submitted that when NET had visited, the area was being run more like a night club, with loud music, a DJ and bright lights.

In response to a Member question, it confirmed that there had been no complaints regarding activity within the internal areas of the Premises at all. It was further explained that the Noise Abatement Notice remained in effect and would override the terms of any licence the Sub-Committee was minded to grant. The noise abatement notice had not, to date, been appealed.

It was confirmed by Ms Worley that NET had been consulted as part of the planning application and that they had raised the same concerns then about

## Licensing Sub-Committee - 28.09.20

noise emanating from the Premises. She emphasised that NET were against any use of the outside area after 2300 hours.

Ms Stefano explained that when she had attended in 24<sup>th</sup> December 2019, it was very loud and that the noise amounted to a nuisance. Ms Stefano stated that although the outside area was well planned and laid out, problems arose due to the fact that this external area only had a roof and no walls.

### **Decision**

In making its decision, the Sub-Committee relied upon the Licensing Act 2003, the Statutory Guidance issued pursuant to s.182 of the Licensing Act 2003 and the Council's statement of Licensing Policy.

The Sub-Committee considered all the written information and representations made at the hearing. The Sub-Committee resolved to grant the application for a new premises licence, but with reduced hours of operation and with further conditions imposed on the licence, sharing TVP's concerns about the way the Premises have been managed so far. In reaching this decision the Sub-Committee were mindful of the Licensing Objective regarding the Prevention of Public Nuisance.

The Sub-Committee were very concerned about the noise nuisance being caused by the Premises, the complaints that the Council had received and what had been witnessed by officers in December 2019 and January and February 2020. Despite being served with a Noise Abatement Notice, noise nuisance had continued to be caused at the Premises to such an extent that the Council had obtained a warrant in the Magistrate's Court and seized noise making equipment from the Premises.

Further, the Sub-Committee were concerned about events witnessed by the Police on 31<sup>st</sup> May 2020. Not only did it appear that an event that should have been licensed was taking place, there also appeared to be wholesale disregard for restrictions put in place by the Government because of the Coronavirus pandemic. If the Premises did not feel bound to comply with those restrictions, the Sub-Committee expressed serious concern regarding compliance with the terms of a premises licence.

In respect of hours, although the Sub-Committee was aware that it was not bound by the hours permitted in the planning application, it decided to grant the same terminal hour of 23.00 hours. Given the way the Premises had been run so far, the Sub-Committee felt that parity between the licensable hours and times permitted by planning was appropriate to avoid any confusion between the two regimes.

The premises licence was granted with the following hours and conditions:  
Hours open to the Public  
Hours for licensable activities

***Monday to Sunday: 1200 hours to 2300 hours***

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Conditions to be added to the licence:

1. Digital CCTV monitoring system to be installed and maintained to Thames Valley Police standards. Recordings to be kept securely for 31 days and made available to Thames Valley Police employees and Authorised Persons as defined by sections 13 & 69 of the Licensing Act 2003 upon request.
2. DPS or nominated person to be trained on how to work the CCTV system to the standard where the nominated person can download any potential evidence required by Thames Valley Police employees and Authorised Persons as defined by sections 13 & 69 of the Licensing Act 2003 upon request. The nominated person is responsible for supplying the necessary media (discs, data stick) containing any downloaded content.
3. Refusals register to be on the premises and kept up to date and made available upon the request of Thames Valley Police employees, Trading Standards Officers and Authorised Persons as defined by sections 13 & 69 of the Licensing Act 2003 upon request.
4. If the CCTV equipment fails the Police and the Licensing Authority will be informed immediately by telephone and immediate steps will be taken to put the equipment back in working order.
5. 2 x SIA door staff to be employed on a Friday and Saturday evening from 20.00 until close. Door staff to be wearing high visibility jackets.
6. SIA door staff register to be kept for 1 (one) year. Register to have details of staff working and booking on and off times. This register must be made available to Thames Valley Police employees and Authorised Persons as defined by sections 13 & 69 of the Licensing Act 2003 upon request.
7. SIA door staff to be employed at any other time as deemed necessary by Thames Valley Police for the Prevention of Crime and Disorder and Public Safety licensing objectives.
8. At least two prominent signs will be displayed in the partially enclosed external area to the rear of the Premises reminding customers to respect the fact that there are residents living nearby.
9. A complaints log ("the Log") will be maintained by the DPS and used to record any complaints made by residents in relation to the operation of the Premises. The Log will record the date, time and nature of the complaint along with the name of the person making the record and any action taken in relation to the complaint.
10. A dedicated telephone number will be made available to residents during trading hours.



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11. At the commencement of live or recorded music played within the Premises the DPS or designated manager will undertake noise checks at the boundary of the nearest noise sensitive properties surrounding the Premises to ensure that the music levels will not amount to a public nuisance. Levels will be turned down if they are deemed to be likely to cause a public nuisance and further checks are to be undertaken until the levels are deemed to be appropriate for compliance with this condition. A record of the checks will be maintained at the Premises and shall be available for inspection by licensing and other responsible authority officers.
12. The partially enclosed external area to the rear of the Premises is not to be used for the playing of live music, recorded music or any associated live entertainment.
13. The external areas shall be managed, as far as practicable to ensure that customers do not behave in a manner that is likely to cause a public nuisance. For the avoidance of doubt this condition does not seek to prevent customers from engaging socially as would be expected at the Premises, but requires a degree of management of customers should their behaviour become overly loud or be deemed to be offensive. If customer's behaviour is not able to be managed and is causing a nuisance then the police will be called for assistance.
14. The partially enclosed external area will be closed to customers from 23.00 hours.
15. All customers to enter and exit the Premises via the main front door facing the High Street.
16. Doors and windows will not be permitted to be opened during live or recorded music (excluding incidental background music) except for access and egress. Signs will be displayed on any doors used for public access and egress reminding customers to close the door after use. Regular checks will be made during regulated entertainment to ensure that as far as practicable this condition is being complied with.
17. The Premises shall install a noise limiter and agree with the local authority the Db level it should be set at for the playing of music in the internal area of the Premises before 23.00 hours.
18. Lights in the partially enclosed external area to be provided for the purpose of illumination only and not entertainment or as part of any show.

Chair

(Note: The Meeting opened at 10.45 am and closed at 12.13 pm)

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