

LICENSING ACT 2003

Application for: Premises Licence Application
Premises: Akaya Lounge, 307-309 High Street, Slough, SL1 1BD
Applicant: Mohammed Ali
Reason for Referral: Representations made by Responsible Authorities.

1. CURRENT POSITION

1.1 An application for a premises licence grant has been made by;

Mohammed Ali; for
Akaya Lounge, 307-309 High Street, Slough, SL1 1BD:

1.2 A copy of the premises licence application and premise plan is attached at **Appendix A & B**. The licensable activities and times applied for are;

Films - Indoors and Outdoors

Live music - Indoors and Outdoors

Recorded music - Indoors and Outdoors

Performances of dance - Indoors and Outdoors

Anything of a similar description - Indoors and Outdoors

Monday to Thursday: 12:00 – 01:00 hours

Friday to Saturday: 12:00 - 03:00 hours

Sunday 12:00 – 23:00 hours

Late night refreshment - Indoors and Outdoors

Monday to Thursday: 12:00 – 01:00 hours

Friday to Saturday: 12:00 - 03:00 hours

2. BACKGROUND INFORMATION

2.1 There is currently no premises licence in place for 307-309 High Street, Slough, SL1 1BD:

3. REPRESENTATIONS RECEIVED

3.1 Three formal representations to the application have been received by the following responsible authorities:

- Thames Valley Police (TVP)
- Planning
- The Neighbourhood Enforcement Team (NET)

3.2 Any person may make representations in relation to applications for the grant of a premises licence. Representations must relate to one or more of the licensing objectives and cannot be frivolous or vexatious.

3.3 The representations detail concerns under the Licensing Objective as follows:

- **The Prevention of Public Nuisance**

In summary:

- Information has been received from Thames Valley Police (TVP) that the premises was breaching The Health Protection (Coronavirus, Business Closure) (England) Regulations 2020 and were carrying on licensable activities without an authorisation (i.e. a premises licence or temporary event notice). Police Officers attended the premise on 31st May 2020 during the period of time when lockdown restrictions were in force. A statement from a Police officer is attached at **Appendix C**.
- Thames Valley Police have requested conditions and a reduction in licensed hours on a **Friday and Saturday to 01:00 hours**. The full representation is attached at **Appendix D**.
- The applicant has agreed to all the conditions requested by the Police and agreed to the reduction in hours on a Friday and Saturday to 01:00 hours. Email confirming their agreement is attached at **Appendix E**
- The premise is currently subject to a planning condition which restricts trading to **11:00 hours until 23:00 hours, Monday - Sundays**. The Planning representation form is attached at **Appendix F**.
- A copy of the Planning decision letter regarding a planning application is attached at **Appendix G**.
- The Planning Department have confirmed that there were 2 other planning applications submitted to the Local Planning Authority to extend their opening times, however, these applications were withdrawn by the applicant.
- The premise has been subject to a noise abatement notice which was served on the 24th December 2019. The Neighbourhood Enforcement Team (NET) have submitted a detailed representation. A copy of the NET representation form is attached at **Appendix H** and a copy of the Neighbourhood Enforcement representation is attached at **Appendix I**, which outlines the numerous noise complaints that have been received from local residents about the premises since 16th December 2019.
- Due to the continued noise complaints from residents, the NET team made an application to Slough Magistrates Court on the 7th February 2020 to enter the premises and to seize all noise making equipment. The warrant was granted and the speakers were removed.

- To date, no appeal has been made against the noise abatement notice and the requirements of the notice still apply. A copy of the notice is attached at **Appendix J**.
- Royal Berkshire Fire and Rescue Service (RBFRS) have responded with no representations and the response is attached at **Appendix K**.

4. RELEVANT GUIDANCE

- 4.1 The sub-committee must have regard to the amended Secretary of States guidance issued in April 2018 under Section 182 of the Licensing Act 2003 and in particular Chapters 9 (Determining applications) and 10 (Conditions attached to Premises Licences). Particular regard should be had to paragraphs 9.31 – 9.41 (Hearings) and 9.42 – 9.44 (Determining actions that are appropriate for the promotion of the licensing objectives).
- 4.2 With regards to Relevant, Frivolous or Vexatious Representations the relevant sections of the Section 182 Guidance state the following:

9.4 A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.

9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.

9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority’s corporate

complaints procedure. A person may also challenge the authority's decision by way of judicial review.

9.8 *Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub-committee before any decision is taken that necessitates a hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.*

9.9 *It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.*

9.10 *Licensing authorities should consider providing advice on their websites about how any person can make representations to them*

4.3 The sub-committee must also have regard to the Council's Statement of Licensing Policy 2014-2019.

5. DETERMINATION – OPTIONS AVAILABLE TO THE SUB-COMMITTEE

5.1 Following the hearing, having had regard to the representations made by all parties, the sub-committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

1. Grant the application as it stands in which case it would be issued subject to the relevant mandatory conditions and conditions consistent with the applicant's operating schedule.
2. Grant the application subject to the mandatory conditions and conditions consistent with the applicant's operating schedule, but modified to the extent the committee consider appropriate for the promotion of the licensing objectives. (Conditions are modified if any of them is altered or omitted or any new condition is added. Conditions must be reasonable, proportionate and appropriate in order to meet one or more of the licensing objectives).
3. Refuse the application.

APPENDICES

Appendix 'A' – Copy of application (premises licence grant)

Appendix 'B' – Copy of premises plan

Appendix 'C' – Copy of PC Charley Hook statement

Appendix 'D' – Thames Valley Police representation

Appendix 'E' – Copy of applicant email accepting TVP conditions

Appendix 'F' – Planning representation

Appendix 'G' – Copy of Planning letter detailing restrictions on trading hours (page 2, point 6)

Appendix 'H' – Neighbourhood Enforcement representation form

Appendix 'I' – Neighbourhood Enforcement representation

Appendix 'J' – Copy of 'Abatement Notice in respect of Statutory Nuisance'

Appendix 'K' – RBFRS – No representation.

Background papers

- The Licensing Act 2003
- Guidance issued under Section 182 of the Licensing Act 2003 (April 2018)
- Regulations (cited as the Licensing Act 2003 ([Various]) Orders 2005
- Slough Borough Council Statement of Licensing Policy – January 2019-2024

Contact Officer

Rachael Rumney
Senior Licensing Officer
Regulatory Services
01753 875664