

**APPLICATION FOR TRANSFER OF A PREMISES LICENCE AND VARIATION OF A DPS -  
PREMIER WYCH HILL (LONDIS), ABERDEEN HOUSE, WYCH HILL**

**Executive Summary**

This report considers an application to transfer a Premises Licence (PL) and vary a DPS for the above premises.

**Recommendations**

The Committee is requested to:

**RESOLVE That** the report be considered and the application be determined accordingly.

The Committee has the authority to determine the recommendation(s) set out above.

**Background Papers:**

None.

**Reporting Person:**

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(Londis), Aberdeen House, Wych Hill**

# Application for Transfer of a Premises Licence and Variation of a DPS - Premier Wych Hill (Londis), Aberdeen House, Wych Hill

## 1.0 Summary of Proposal

**Application Type:** Transfer and DPS Variation

**Site Address:** Premier Wych Hill (Londis)  
Aberdeen House  
Wych Hill  
Woking  
Surrey  
GU22 0EU

**Applicant** ARKA Licensing Consultants  
  
*on behalf of*  
  
*Mrs Sutharsine Perayeravan*

**Application Ref:** 23/00187/PREMIS

## 2.0 Description of Premises

- 2.1 The premises is small local shop located on Wych Hill.
- 2.2 The premises has been licenced since 2011.
- 2.3 Further information on the premises can be found in Section 7.0 of this report.

## 3.0 Details of Proposal and Operating Schedule

- 3.1 The application received on the 22 August 2023 was to
  - Transfer the premises licence to Mrs Sutharsine Perayeravan
  - Change the DPS to Mr Navaratnam Pathmilan
- 3.2 A copy of the Premises licence (that is being transferred) is attached as Appendix 1 (pages 17-26).
- 3.3 A copy of the transfer application is attached as Appendix 2 (pages 27 – 34) and the DPS Variation is attached as Appendix 3 (pages 35 – 40).

## 4.0 Promotion of Licensing Objectives

- 4.1 Each application will be given individual consideration on its merit. Nothing in the Licensing Policy shall undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in the Licensing Policy shall override the right of any person to make representations

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on an application or seek a review of a licence where provision has been made for them to do so in the Act.

4.2 The Sub-Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

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

### **5.0 Relevant Representations**

5.1 The following representations have been received in relation to the application:

#### **Responsible Authorities**

Surrey Police:

**Objection Received.**

5.2 Representations received had concerns relating to Crime and Disorder and Protection of children from harm.

5.3 The Objection is attached as Appendix 8 (pages 63 – 67).

### **6.0 Policy Considerations**

6.1 In making its decision, the Sub-Committee is obliged to have regard to National Guidance and the Council's own Licensing Policy. The Sub-Committee must also have regard to all of the representations made and the evidence it hears.

6.2 The Licensing Officer considers the following policies taken from the '**Licensing Policy for Woking Borough**' should be considered for this application.

<b>6.0 Fundamental Principles</b>	
6.3	The Council recognises that public houses, nightclubs, restaurants, hotels, theatres, private members clubs, concert halls and cinemas all sell alcohol, serve food and provide entertainment, but with contrasting styles and characteristics. In considering applications, regard will be given to those differences and the differing impact these will have on the local community.
6.4	The Council can only attach conditions to licences where necessary to ensure the licensing objectives are served and may include conditions drawn from the Pool of Conditions relating to the licensing objectives contained in the guidance issued under the Act. When considering conditions, the Council will focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned and those matters which are within the control of the applicant on the premises and in the vicinity of those premises. Whether or not incidents can be regarded as in the vicinity of licensed premises is a question of fact and will depend upon the particular circumstances of the case. The Council acknowledges that licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are away from the

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6.6	premises and beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
<b>7.0</b>	<b>The Licensing Objectives (Prevention of Crime and Disorder)</b>
7.1	The Council will carry out its licensing functions with a view to promoting the prevention of crime and disorder and will seek to ensure that licensees take measures to regulate the behaviour of persons whilst on their premises, or in the immediate vicinity of the premises as they seek to enter or leave.
7.2	In addition to the requirement for the Council to promote this licensing objective, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on, and to do all it reasonably can to prevent, crime and disorder in the Borough.
<b>10.0</b>	<b>The Licensing Objectives (Prevention of harm to children)</b>
10.1	The Council will carry out their licensing functions with a view to protecting children from harm. In addition to the specific prohibitions in the Licensing Act on the access of unaccompanied children to certain premises between certain hours, licensees will be expected to take measures to ensure the safety and welfare of children on their premises. The Council is committed to reducing the problems arising from under-age drinking and to protect children from moral, psychological or physical harm.

6.3 The Sub-Committee must take such of the following steps as it considers necessary for the promotion of the Licensing Objectives:

- i) Grant the application as made.
- ii) Modify the conditions of the licence, by altering, removing or adding to them.
- iii) Reject the whole or part of the application.

6.4 Should the Committee decide to override the Policy then it should be clearly evidenced and documented exactly what the 'exceptional circumstance' is that would allow the Licensing Authority to depart from the Policy.

6.5 The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be necessary in order to promote the Licensing Objectives.

## **7.0 Premises History**

7.1 The premises has been licenced since August 2011.

7.2 When the premises first applied for its licence, it received 31 objections from the local community who objected to the premises licence on a number of issues. This resulted in Licensing Sub-Committee on the 13th of July 2011.

7.3 A Copy of the Licensing Report from July 2011 can be found at Appendix 4 (pages 41 – 52).

7.4 The decision of the Licensing Sub-Committee was to add a further condition to the licence, namely that "A minimum of two members of staff shall be present on the premises during times when alcohol is on sale."

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- 7.5 In October 2011, after the licence was issued, complaints were received from the public suggesting that the premises was failing to comply with this condition.
- 7.6 A copy of the letter to the licence holder a result of these complaints is attached as Appendix 5 (page 53).
- 7.7 In August 2020 the premises was transferred to a new licence holder, who we will call Mr PL.

### **8.0 Previous Licence Surrender**

- 8.1 In July 2023 the Licensing Department received notification from the Finance Department advising us that Mr PL was not paying his invoice for his annual fee as he had sold the premises on the 24th of May 2023.
- 8.2 On the 21st of July 2023 Mr PL, having been advised of the laws regarding notification of changes to licences advised the Licensing Department that he wished to surrender the Premises Licence.
- 8.3 However it was revealed during the email conversation with Mr PL that the premises had a new person involved in the running of the business - Mrs Sutharsine Perayeravan. Mr PL was notified that by surrendering the Premises Licence it would result in difficulties for Mrs Perayeravan and the Licensing Department sought clarity as to whether he was intending to surrender or transfer the licence. Mr PL seemed unsure what he was doing.
- 8.4 Eventually on the 28th of July 2023, having been given his options, Mr PL confirmed he wanted to surrender the licence, and so it was surrendered.
- 8.5 On the 17th of August 2023, as part of a Surrey Police evening of test purchasing, the premises in question was found to be not only selling alcohol still (potentially in contravention of S136 of The Licensing Act 2003) but also failed the test purchase when alcohol was sold by Mr Navaratnam Pathmilan to a minor. Information from Surrey Police relating to this test purchase are attached as Appendix 6 (pages 55 – 56).
- 8.6 As a result of this test purchase, an email was sent to Mrs Sutharsine Perayeravan advising her that the licence was surrendered on the 28th of July and consequently all alcohol must be removed from the premises.
- 8.7 We received an email back from “ARKA Licensing” notifying us that they were “handling this matter” and would be putting in an application to transfer the licence and vary the DPS.
- 8.8 It should be noted here that a transfer can take place on a surrendered or lapsed licence where the applicant a) has the use of the premises and b) submits the transfer no later than 28 days after the date the licence was surrendered. Therefore even though it had been surrendered, they still had until the 25<sup>th</sup> of August to carry this out.

### **9.0 Premises Transfer**

- 9.1 On the 22<sup>nd</sup> of August 2023 an application to transfer the licence and a DPS Variation were received.
- 9.2 Arka Licensing were informed of the ability to transfer up to 28 days after a surrender, and were also informed that the law permits the licence to continue from the date that the transfer application was submitted. In light of the Test Purchase, they were also asked if alcohol had

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been sold between the 28th of July (when the licence was surrendered) and the 22nd of August (when the application was submitted.)

- 9.3 ARKA responded stating “Applicant said they were not selling alcohol until the licence become effective in applicant name. It became effective again from 21st August. All staff were instructed not to sell.”
- 9.4 When reminded of the Test Purchase results, ARKA then advised us that “Staff sold alcohol on that day were suddenly wasn't feeling well, fell asleep and made a mistake.”
- 9.5 Further enquiries were made via email, but minimal further explanation was given.
- 9.6 It seemed disappointing that the applicants first response to our enquiry regarding the sale of alcohol during a time when the licence was surrendered was to lie.
- 9.7 The email conversation between the Licensing Authority and the Applicants/Agents is attached as Appendix 7 (pages 57 – 61).

### **10.0 Surrey Police**

- 10.1 On the 31st of August 2023 an objection was received from Surrey Police relating to their application, on the grounds of Crime and Disorder and Prevention of Harm to Children.
- 10.2 They also had concerns that the condition on the licence – regarding the requirement for more than one staff member to be on site – was not being complied with.
- 10.3 Lesley Sumner from Surrey Police met with Suresh Kanapathi from ARKA licensing at the premises on the 1st of August to discuss their application to transfer and the objection. During this meeting, Mr Pathmilan was again working and was (other than Suresh) the only person in the store.
- 10.4 During a visit to the Premises on the 16th of September 2023 by Licensing Officer, it was evident that Mr Pathmilan was the only person working in the shop on his own.
- 10.5 Concerns were raised by Surrey Police and an attempt to negotiate with Suresh of ARKA regarding the application took place via email in follow up to their meeting.
- 10.6 The Police emails are attached as Appendix 9 (pages 69 – 70).

### **11.0 Ensuing variation and DPS Change**

- 11.1 As a result of Police discussion and their concerns, on the 11th of September 2023 the applicant has submitted a minor variation to add further conditions and a DPS Variation.
- 11.2 This is an entirely separate application and depends on the outcome of this hearing. Should the Licensing Sub-Committee refuse this transfer application as part of this hearing, then it would mean that Mrs Perayeravan is not the licence holder and not able to carry out the variation.
- 11.3 Should the Licensing Committee grant the transfer then Mrs Perayeravan would be the licence holder and the variation – to add conditions – would go ahead.
- 11.4 To ensure clarity, the proposed conditions from the minor variation are attached as Appendix 10 (pages 71 – 72).

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- 11.5 It should be noted that the DPS variation would resolve the Police's concerns over the suitability of the DPS, and the proposed conditions would go some way towards resolving future issues regarding the failure of the test purchase, but they do not alleviate the Police concerns over the suitability of Mrs Peryarevan to hold a licence.
- 11.6 It is also questionable as to whether there is any purpose in adding further conditions when it is evident that current conditions are not being complied with.

**12.0 Licensing Authority Concerns**

- 12.1 The Licensing Authority has concerns over the suitability of Mrs Sutharsine Perayeravan to hold a premises licence, as per the concerns of Surrey Police.
- 12.2 The first issue is the surrender of the licence and the sale of alcohol.
- 12.3 If Mrs Perayeravan believed there to be a licence in place (i.e. she was unaware of the surrender) then why was her first instinct to mislead the Licensing Authority about the sale of alcohol that took place on the 17th of August?
- 12.4 This is not a good grounding of trust and responsibility if that is their first reaction to an enquiry from the Licensing Authority.
- 12.5 If Mrs Perayeravan thought the licence was still in place, and was misleading the licensing authority because she was only then aware of the surrender, then why were the Licensing Committee Hearing Conditions relating to the requirement to have two staff on site not being complied with?
- 12.6 It would be beneficial if the Sub-Committee were able to assist in establishing whether Mrs Perayeravan knew there was no licence in place and was selling alcohol illegally (which would seem to be the case as per the lie about not serving alcohol on the 17th) or whether they believed a licence to be in place, but were just ignoring the Conditions of the licence (regarding the two staff on site).
- 12.7 If the issue is that Mrs Perayeravan was simply ignoring the conditions of the licence, then there is little point issuing further conditions as they have demonstrated they cannot comply with the conditions that a previous sub-committee has already imposed.
- 12.8 The second issue is the proposed DPS, Mr Navaratnam Pathmilan. Whilst a second DPS has been put forward it is evident that Mr Pathmilan is intending to still be working there the majority of the time, and the new proposed DPS may be simply paperwork – or a 'get around' to cover the fact that they still intend Mr Pathmilan, who is potentially unsuitable, to be doing the majority of the work in the premises.
- 12.9 This seems potentially likely due to the fact that Mr Pathmilan has been on site alone every time an officer has visited the premises in the last month.
- 12.10 The Police test purchase identified that Mr Pathmilan is known as "Milan". The email that Mrs Sutharsine Perayeravans has been using is subamilan@gmail.com which comes up as the name "Subasiny Pathmilan".
- 12.11 This suggests a closer connection to the licence holder than merely an employee.



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**13.0 Reference materials**

13.1 To assist the Licensing Committee in their decision making process, the Local Government Association Councillors Handbook to the Licensing Act has been attached as Appendix 11 (pages 73 – 121), and the Supporting Guidance, “Pool of Conditions,” has been attached as Appendix 12 (pages (123 – 142).

**14.0 Implications**

Finance and Risk

14.1 There are no significant financial implications. A nationally set application fee is charged to defray the cost of processing applications.

14.2 The risks to the Council associated with determining an application are:

- Failure to undertake its statutory responsibilities within required timescales;
- Making a decision that may be challenged by the applicant via an appeal to the Magistrates Court with the possible consequence of costs being awarded against the Council; and
- Making a decision that compromises Community Safety.

14.3 These risks have been dealt with in the report under section 4.0 by highlighting that the Sub-Committee is required to determine this application for a Premises Licence under the Licensing Act 2003 having due regard to the four Licensing Objectives, national guidance, the local licensing policy, relevant representations and evidence presented at the hearings. Determining applications in this way will reduce the risk of the decisions of the Council being open to challenge via appeal to the Magistrates Court and promote Community Safety in the Borough.

Equalities and Human Resources

14.4 None.

Legal

14.5 The Licensing Authority must act to promote the four Licensing Objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

14.6 The Licensing Authority must have regard to its statement of Licensing Policy and the guidance issued by the Secretary of State in carrying out its functions.

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**15.0 Conclusions**

- 15.1 The Sub Committee is requested to consider the report, the evidence it will hear, representations made, responses to questions raised and reach a reasoned decision.
- 15.2 The decision made will not come into force until the 21 day appeal period expires or any appeal is dealt with by the Courts if so called.

REPORT ENDS