

**LICENSING ACT 2003
LICENSING SUB-COMMITTEE
NOTIFICATION OF DECISION**



Portsmouth
CITY COUNCIL

Notice is hereby given to:

Name: «Name»
Address: «Address»
Status: «Status»

in accordance with the provisions of the Licensing Act 2003 ("the Act") and Regulations made thereunder, that a hearing was held on:

Date: 16 November 2011

to consider an application for the variation of a premises licence made in accordance with paragraph 34 of the Act. The details of the applicant and premises are:

Name of Applicant:	Sebastiampillai Jeevanayagiam
Premises and address:	Best One, 140-144 Fratton Road

Decision of Licensing Authority:

In considering the application, the Committee had regard to the promotion of the licensing objectives, the Act, its statement of licensing policy, the statutory guidance issued by the Secretary of State and the representations (including supporting information) presented by all the parties.

Decision: The decision for the variation of a premises licence at Best One, 140-144 Fratton Road, Portsmouth PO1 5DD was refused.

Reasons for decision:

In reaching this decision the committee carefully took into account all representations made to them, both written and verbal. In addition to this, they took into account the 4 licensing objectives as set out in the Licensing Act 2003, statutory guidance, the statement of licensing policy and the Human Rights of the applicant. The committee had heard that previously the store had a 24hour licence and as a direct result of public nuisance and crime and disorder occurring, the licence was reduced. Since then Best One has successfully increased its alcohol hours in the morning, to no apparent adverse effect in the local amenity. Nonetheless, the committee was also satisfied that on previous occasion when there was a late night licence, there was evidence that local residents suffered substantial disturbance in the early hours of the mornings from public nuisance and crime and disorder and that since the hours were reduced those problems have been substantially abated. As such the committee is not prepared to grant the extension of alcohol hours in the light of the licensing objectives.

Where an application (or any part of an application) has been granted, the variation will take effect from¹:

N/A

Appeal provisions:

In accordance with the provisions of Schedule 5, Part 1, Paragraphs 1 & 4 of the Act, appeal provisions exist in respect of this application. Those provisions are as follows:

The applicant:

Where the Licensing Authority rejects (in whole or in part) an application to vary a premises licence under section 35 of the Act, the applicant may appeal against the decision. (*Schedule 5, Part 1, Paragraph 1(b) of the Act*).

Where an application to vary a premises licence is granted (in whole or in part), the applicant may appeal against any decision to modify the conditions of the licence. (*Schedule 5, Part 1, Paragraph 4(2) of the Act*).

A person who made relevant representations:

Where a person who made relevant representations in relation to the application desires to contend:

- (a) that any variation made ought not to have been made, or
- (b) that, when varying the licence, the Licensing Authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way, he may appeal against the decision. (*Schedule 5, Part 1, Paragraph 4(3)(a) or (b) of the Act*).

General provisions about appeals under the Act:

An appeal must be made to the magistrates' court for the petty sessions area in which the premises concerned are situated.

An appeal must be commenced by notice of appeal given by the appellant to the justices' chief executive for the magistrates' court within the period of **21 days** beginning with the day on which the appellant was notified by the Licensing Authority of the decision appealed against.²

On an appeal under paragraph 4(3), the holder of the premises licence is to be the respondent in addition to the Licensing Authority.

¹ The time that the variation will take effect is the time specified in the application or, if that time is before the applicant is given this notice, such later time as the Licensing Authority specifies in this notice.

² In the case of a hearing under section 35 of the Act which is in respect of an application made at the same time as an application for conversion of an existing licence under paragraph 2 of Schedule 8 of the Act, the Licensing Authority must make its determination at the conclusion of the hearing and therefore the period of 21 days will commence from the date of the hearing.

In any other case of a hearing under section 35 of the Act, the period of 21 days will commence from the date on which written notice is given, or in the case of electronic transmission, when the text is received.

Action that may be taken by the magistrates' court:

On an appeal against a decision of the Licensing Authority, a magistrates' court may:

- (a) dismiss the appeal;
- (b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority; or
- (c) remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court,

and may make such order as to costs as it thinks fit.

Should you have any questions relating to this Notification of Decision, please contact the Licensing Manager:

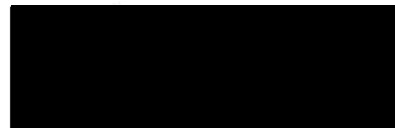
Tel No: 023 9283 4604

Fax No: 023 9283 4811

Email: licensing@portsmouthcc.gov.uk

Date of Notice: 2 December 2011

Signed:

A black rectangular box used to redact the signature of the Licensing Manager.

Licensing Manager



Portsmouth
CITY COUNCIL

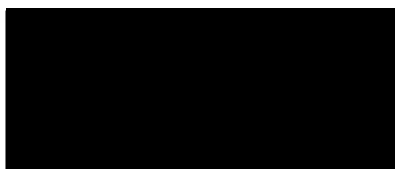
NOTIFICATION OF DECISION

Licensing Act 2003 - Licensing Sub-Committee

PORTSMOUTH CITY COUNCIL as licensing authority in accordance with the Licensing Act 2003 ("the act") and regulations made thereunder, hereby give notice pursuant to section 36 of the act to:

Name:

Address:



Status:

Other Person

That a hearing was held on:

Date:

11 March 2014

To consider an application for the **VARIATION of a premises licence** made in accordance with Section 34 of the Act. The details of the applicant and premises are:

Name of Applicant:

Mr Sebastiampillai Jeevanayagam

Premises and address:

**Best-One
140 - 144 Fratton Road
Portsmouth
Hants
PO1 5DD**

Decision of Licensing Authority:

In determining and considering the application pursuant to section 35 of the act, the Committee had regard to:

- The Licensing Act 2003
- The promotion of the licensing objectives
- The council's adopted statement of licensing policy for the time being in force
- The statutory guidance issued by the Secretary of State for the time being in force
- Any relevant case law
- The representations (including supporting information) presented by all the parties

Decision:

Refuse

Reasons For Decision:

The committee carefully considered all the representations received, both oral and written. It noted that although the police did not make any representations, it did not make any positive comments in support of the application either.

The committee noted that the licence was previously held on a 24 hours basis and as a direct result of a residents' requested review, there was sufficient evidence before the previous committee to modify the licensing hours as there was a negative impact on the community and the licensing objectives were being undermined. This decision was then upheld on review by the Magistrates Court.

The committee noted that since the original reduction in the hours, the applicant has successfully applied to open earlier in the morning and that there has been no detrimental impact upon the community. In fact [REDACTED] commented that the last few years had been 'bliss'.

However, this application seeks to increase the evening licensing hours. As already stated The committee had evidence before it that showed that previously the late night licence breached the licensing objectives and the committee had heard no reassurance or evidential basis that the applicant could now proactively address the issues that occurred previously.

Therefore, the application for the variation of the current premise licence was refused.

Appeal Provisions:

In accordance with the provisions of Schedule 5 of the Act, appeal provisions exist in respect of applications made to the Licensing Authority. Those provisions are outlined as follows:

The applicant:

Where the Licensing Authority rejects (in whole or in part) an application to vary a premises licence, the applicant may appeal against the decision - *Part 1, paragraph 1(b) of the Act*.

Where the Licensing Authority grants (in whole or part) an application to vary a premises licence, the applicant may appeal against any decision:

to modify the conditions of the licence - *Part 1, paragraph 4(2) of the Act*.

A person who made relevant representations:

Where a person who made relevant representations in relation to the application desires to contend:

- that any variation ought not to have been made, or
- that, when varying the licence, the Licensing Authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way,

he may appeal against the decision – *Part 1, paragraph 4(3) of the Act*.

Note: The applicant for the licence is to be the respondent in addition to the Licensing Authority in relation to any appeal lodged by a person(s) who made relevant representations.

General Provisions About Appeals:

An appeal must be made to the Magistrates' court for the petty sessions area in which the premises concerned are situated.

An appeal must be commenced by notice of appeal given by the appellant to the designated officer for the Magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision appealed against.¹¹

Action that may be taken by the Magistrates' Court:

On an appeal against a decision of the Licensing Authority, a Magistrates' court may:

- dismiss the appeal;
- substitute for the decision appealed against, any other decision which could have been made by the Licensing Authority; or
- remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court,

and may make such order as to costs as it thinks fit.

Date of Notice: **12 March 2014**



Signed on behalf of the head of Service
(Authorised Officer)

¹¹ The period of 21 days will commence from the date on which written notice is given, or in the case of electronic transmission, when the text is received.