



**GENERAL LICENSING SUB COMMITTEE**  
**22 May 2018**

# ITEM 5

Report of the Strategic Director of Communities  
& Place

## **Application for a Provisional Statement at: St James' Yard, St James' Street, Derby DE1 1RN**

### **SUMMARY**

- 1.1 An application for a Provisional Statement at: St James's Yard, St James' Street, Derby DE1 1RN has been received by Derby City Council's Licensing Team.
- 1.2 The sale by retail of alcohol; the supply of alcohol by or on behalf of a club to A member of the club; the provision of regulated entertainment; and the provision of late night refreshment must be licensed under the Licensing Act 2003.
- 1.3 Application for a Provisional Statement is a mechanism whereby a person who would in the future be applying for a Premises Licence can obtain a Provisional Statement which indicates the prospects of success when there is an application for a Premises Licence is made.
- 1.4 The issuing of a Provisional Statement does not automatic convert to a Premises Licence and an application for a Premises Licence will need to be submitted, however the ability to make representations is restricted.
- 1.5 Officers have delegated powers to deal with applications for Provisional Statements where there are no Relevant Representations received; however this is not the case with this application and hence attendance at committee today.
- 1.6 The General Licensing Sub Committee must:
  - Determine whether, on the basis of those representations and the Provisional Statement application , it would consider it appropriate to take any steps under section 18 (3)(b) if, on the works being satisfactorily completed, it had to decide whether to grant a Premises Licence in the form described in the Provisional Statement application
  - and
  - Issue a statement which gives details of:
  - The determination
  - and

- The authority's reason for its decision as to the steps (if any) that would be appropriate to take under section 18 (3)(b).

## RECOMMENDATION

- 2.1 To consider the information in the report, consider the application and any Relevant Representations to determine the application for a Provisional Statement at: St James' Yard, St James' Street, Derby DE1 1RN.

## REASONS FOR RECOMMENDATION

- 3.1 To ensure that the four licensing objectives are upheld in relation to the application for a Provisional Statement at: St James' Yard, St James' Street, Derby DE1 1RN.

## SUPPORTING INFORMATION

- 4.1 An application for a Provisional Statement was received by Derby City Council's Licensing Team from Clowes Developments (UK) Ltd, Brailsford Hall, Hall Lane, Brailsford, Derbyshire DE6 3BU on 9 April 2018.

A copy is attached at **Appendix 1**.

- 4.2 The Licensing Team has received two Relevant Representations, from Responsible Authorities: Derbyshire Constabulary and Derby City Council's Licensing Authority. There is one representation supporting the application. The Environmental Protection and Trading Standards Teams have agreed conditions with the applicant.

These are all attached at **Appendix 2**.

4.3 The responses from all Responsible Authorities are detailed in the table below;

RESPONSIBLE AUTHORITY	REPRESENTATION	REPRESENTATION WITHDRAWN	NO REPRESENTATION	NO RESPONSE
Derbyshire Constabulary	✓			
Derbyshire Fire & Rescue			✓	
Planning Department				✓
Safeguarding Children				✓
Food and Safety Team			✓	
Environmental Protection Team			Conditions agreed	
Trading Standards Team			Conditions agreed	
Local Authority	✓			
Primary Care Trust				✓

4.4 **The licensable activities applied for are:**

- the supply of by retail of alcohol (off/on the premises)
- Regulated Entertainment ; a performance of live music (indoors) and any playing of recorded music (indoors).
- The provision of late night refreshment.

4.5 **The days and times of the licensable activities applied for are:**

10.00hrs to 00.00hrs Sunday – Thursday & 10.00hrs – 01.00hrs Friday & Saturday for all activities with the exception of Late Night Refreshment which is 11.00hrs to 00:00hrs Sunday – Thursday & 10.00hrs – 01.00hrs Friday & Saturday.

**Non-standard times:** For all licensable activities applied for:

New Year's Eve - From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

4.6 **The days and times the premises are open to the public are:**

09:00hrs to 00:30hrs Sunday – Thursday & 09.00hrs – 01.30hrs Friday & Saturday.

**Non-standard times:**

New Year's Eve - From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

4.7 **The Proposed Premises Licence Holder is:**

Clowes Developments (UK) Ltd

- 4.8 **The Proposed Designated Premises Supervisor is:**  
Unnamed
- 4.9 A location plan of the premises is attached at **Appendix 3**.
- 4.10 The 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.
- 4.11 In making its decision, the Committee is also obliged to have regard to national Guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Licensing Policy.
- 4.12 The Council recognises the importance of securing proper integration with and attaching relevant conditions that reflect local strategies.
- 4.13 The Council has a duty to act in a manner which is compatible with the Human Rights Act 1998.
- 4.14 A Licence is regarded as property for the purposes of the Human Rights Act 1998. Article 1 of the First Protocol states that:
- "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
- The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."
- 4.15 The Committee must also take into account the effect on local residents. Article 8 states:
- Everyone has the right to respect for his private and family life, his home and his correspondence.
  - There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

4.16 Three stage test to be applied:

- Is the interference in accordance with the law?
- Is the interference necessary in a democratic society in pursuit of one of the legitimate aims set out above?

Is the decision proportionate ie. Striking a fair balance between the demands of the general interests of the community and the requirement to protect the individual's fundamental rights?

<b>OTHER OPTIONS CONSIDERED</b>
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5.1 No other options available.

**This report has been approved by the following officers:**

<b>Legal officer</b> <b>Financial officer</b> <b>Estates/Property officer</b> <b>Human Resources officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	Not Applicable for Sub Committee Not Applicable for Sub Committee Not Applicable for Sub Committee Not Applicable for Sub Committee Not Applicable for Sub Committee Not Applicable for Sub Committee
<b>For more information contact:</b>  <b>Background papers:</b> <b>List of appendices:</b>	Name: Sandra Mansell Telephone:01332 641931 e-mail: <a href="mailto:Sandra.mansell@derby.gov.uk">Sandra.mansell@derby.gov.uk</a> None Appendix 1 – Application Appendix 2 – Relevant Representations Appendix 3 – Location Plan