

Meeting Commenced:	10.19am
Meeting Adjourned:	11.30am
Meeting Recommended:	12:32pm
Meeting Finished:	4.54pm

GENERAL LICENSING SUB-COMMITTEE

23 October 2018

Present: Councillors Cooper A Holmes and Smale
Officers: Lucie Keeler (Legal Services)
Sandra Mansell (Licensing Team Leader)

16/18 Appointment of Chair

Resolved to appoint Councillor A Holmes as Chair of the General Licensing Sub Committee.

17/18 Apologies

There were no apologies for absence.

18/18 Late Items to be Introduced by the Chair

There were no late items.

19/18 Declarations of Interest

There were no declarations of interest.

20/18 Application for a New Premises Licence at Junk Bar and Restaurant, 53-55 Queen Street, Derby, DE1 3DE

The Sub-Committee has considered an application for a new Premises Licence for Junk Bar and Restaurant, 53-55 Queen Street, Derby, DE1 3DE. The requested licensable activities applied for are the sale by retail of alcohol (on/off the premises) and regulated entertainment; provision of films (indoors).

The Sub-Committee has heard evidence from: Sandra Mansell (Licensing), Mr Guram (Other Person), Ms Childs (Other Person), Mr Cochrane (solicitor for the Applicant) Mr Edmonds (Applicant) and Mr Edwards (Director of Junk Street Foods Ltd) and has also taken account of the written documentation received.

Decision

In making its decision, the Sub-Committee has had regard to the Derby City Council Licensing Policy, the amended guidance issued under section 182 of the Licensing

Act 2003 and the Human Rights Act 1998 and has carefully considered all the evidence presented to it.

The Sub-Committee has made this decision to promote the 4 Licensing Objectives:

- (a) Prevention of crime and disorder;
- (b) Public Safety;
- (c) Prevention of Public Nuisance;
- (d) Protection of Children from harm.

The Sub-Committee made the following findings of fact:

- (a) There have been no representations made by any of the Responsible Authorities.
- (b) Conditions have been agreed between Derbyshire Constabulary and the applicant in this matter and the Environmental Protection Team and the applicant in this matter.
- (c) There have been 8 letters received in by Other Persons and a petition signed by 20 individuals and a letter of support of the petition from Councillor Nawaz and a letter from Rt Hon. Dame Margaret Beckett DBE.
- (d) There are 17 apartments above the proposed premises, of which 10 of the apartments either signed the petition or wrote letters in.
- (e) In respect of the prevention of public nuisance, the Sub-Committee have considered the oral representations of Ms Childs and Mr Guram and written representations made by Carrie Childs, Joey Hoogendoorn, Baris Kizavul, Caroline Burrows, Peter Wilson, Alice Power, Dominic Chapman, Laura Nicholson, Benedetta Capano, Graeme Doyle and Simon Davis specifically in respect of noise nuisance. The Sub-Committee note that the Applicant since initially putting in the application has taken positive steps to address the concerns raised as evidenced by them removing the request for licensable activity of recorded music. In addition to this the conditions have been agreed with the Environmental Protection Team to address any potential public nuisance issues at the premises and during the Sub-Committee today the Applicant volunteered a further condition of having a telephone number being given to the residents for them to report any nuisances coming from the premises. The Sub-Committee find these measures will adequately allay any concerns and will promote the licensing objectives.
- (f) In respect of public safety and the prevention of crime and disorder, the Sub-Committee have considered the oral representations of Mr Guram and Ms Childs and the written representations of Carrie Childs, Laura Nicholson, Benedetta Capano, Joey Hoogendoorn, Baris Kizavul, Caroline Burrows, Peter Wilson, Graeme Doyle and Simon Davis, and do not find these to be relevant representations. Whilst concerns were raised within the representations these were not supported by any evidence. Mr Guram referred to police statistics during his oral representation, he suggested that the area where the premises is located had a below average number of reports compared to other areas of Derby and that if the premises were to open this would only increase. The Sub-Committee do not find this has been substantiated by evidence either from the Other Persons or from any

Responsible Authority notably Derbyshire Constabulary. The Sub-Committee are mindful that the Section 182 guidance states that *“the police should usually be the licensing authority’s main source of advice on matters relating to the promotion of the crime and disorder licensing objective”*.

The Sub-Committee has RESOLVED to GRANT the application for Junk Bar and Restaurant, 53-55 Queens Street, Derby, DE1 3DE in the following way:

Licensable activities included are the sale by retail of alcohol (off the premises)

- 7.1 To allow the following hours for the provision of the sale by retail of alcohol (on/off the premises) and Regulated entertainment; provision of films (indoors) as follows:

Activity	Hours
Sale by retail of alcohol (on/off the premises)	Monday – Saturday 12:00 – 23:00 hours
	Sunday 11:00 -23:00 hours
Regulated entertainment; provision of films (indoors)	Monday – Saturday 12:00 – 23:00 hours
	Sunday 11:00 -23:00 hours
Hours open to the public	Monday – Saturday 12:00 to 00:00 hours
	Sunday 11:00 to 00:00 hours

In order to promote the 4 Licensing Objectives, the following conditions will be attached to the Licence:

ADDITIONAL CONDITIONS

Full training shall be provided to all staff on commencement of employment relating to all age-restricted products sold and any system or procedures they are expected to follow in the course of dealing with these goods.

- 8.2 Refresher training shall be provided at regular intervals – at least every 6 months.

- 8.3 Records detailing the training provided shall be kept on the premises for production upon request of a Police Officer or other authorised person as defined in the Licensing Act 2003.
- 8.4 All records must be written and shall be retained on the premises for a minimum of 12 months.
- 8.5 A Challenge 25 or similar Proof of age scheme shall be operated at all times.
- 8.6 Anyone attempting to purchase alcohol (or other age restricted product) that appears under the age of 25 years shall be asked to produce a proof of age.
- 8.7 The only acceptable forms of identification shall be:
- PASS – accreditation proof of age card.
 - Photo Driving Licence.
 - Current Passport.
 - HM Forces Identity Card
- 8.8 Clear, prominent and unobstructed signage informing customers of the proof of age scheme in operation, along with the age restrictions on products shall be displayed at all entry points to the premises.
- 8.9 A system of recording sales refused under the proof of age scheme shall be operated at all times.
- 8.10 The refusal book/log shall be kept on the premises for production upon request of a Police Officer or other authorised person as defined in the Licensing Act 2003.
- 8.11 The records relating to the refusal book/log shall be retained on the premises for a minimum of 12 months.
- 8.12 The Designated Premises Supervisor (DPS) shall ensure that a written incident log is maintained within the premises and details of all incidents are recorded within the log. This log shall be kept on the premises for a period of not less than 12 months and shall be produced upon request of a Police Officer or other authorised person as defined in the Licensing Act 2003.
- 8.13 The DPS will undertake a risk assessment to consider the occasions when there is a requirement for the deployment of Door Supervisors at the premises. Any relevant concerns from the police shall be considered when making the assessment.
- 8.14 When employed and on duty as Door Supervisors high visibility arm bands will be worn.
- 8.15 A register of those Door Supervisors employed and on duty at the premises shall be maintained and shall include;

- i. The number of Door Supervisors on duty
 - ii. The identity and badge number of each Door Supervisor on duty
 - iii. The time each Door Supervisor books on and off duty
 - iv. A signature of each Door Supervisor on duty
- 8.16 This register shall be kept on the premises for a period of not less than 12 months and shall be produced upon request of a Police Officer or other authorised person as defined in the Licensing Act 2003.
- 8.17 The DPS shall ensure that clear, prominent and legible notices must be displayed internally at all exits, requesting customers and other users to leave the premises and the area local to the premises quietly and in an orderly manner respecting the needs of local residents.
- 8.18 A CCTV system shall be installed at all times and the recording system must be maintained in good working order and any faults repaired as soon as possible. (It is recommended that all maintenance paperwork be kept to show that the retailer has shown all due diligence in maintaining the system).
- 8.19 The CCTV recording system must be operating at all times when the premises are open for licensable activities.
- 8.20 All CCTV recordings must be retained for a minimum of 28 days. These images must be available for viewing at any reasonable time upon request of a Police Officer or other authorised person as defined in the Licensing Act 2003.
- 8.21 The premises holder, DPS or person in charge of the premises must be able to retrieve and copy any recording/images at the time of asking or within 48 hours if so required. (The police will not meet the cost for a recording or materials used for a reproduction of the image in respect of any crime and disorder; all costs are to be met by the owner of the system. If the incident was unrelated to the premises, the retrieval, if a cost incurred, would be met between the agencies requiring the image).
- 8.22 The CCTV recording unit is to be kept secure, to be opened only by the premises licence holder or authorised, designated member of staff.
- 8.23 Installed CCTV cameras are to be positioned both internally and externally so as to ensure that all parts of the premises to which the public has access are sufficiently covered (save for any toilet areas).
- 8.24 All cameras installed will be of a standard that will offer optimum image quality in low light.
- 8.25 All digital recordings to be made in real time (time lapse not to be used).
- 8.26 No customer shall be allowed to remove any alcoholic or other drinks from the licensed area of the premises in an open container (e.g. glasses and open

bottles) save for the times when an authorised pavement licence allows such activity.

- 8.27 A minimum of 70% of the existing floor space of the premises shall be allocated for the use of customers to be seated at the premises.
- 8.28 Speakers shall not be permitted within external areas at the premises.
- 8.29 Prominent, clear and legible notices shall be displayed at all exits from the premises, requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
- 8.30 Refuse, such as bottles, shall not be placed into receptacles outside/rear of the premises between 11pm and 8am, in order to minimise the disturbance to nearby properties.
- 8.31 Customers shall not use the outside area for drinking or eating after 10pm on any given day.
- 8.32 In the interests of minimising disturbance to neighbours, the licence holder, DPS or a suitably trained nominated representative, shall monitor the effect of patrons leaving the premises from time to time and at least once a week. A record of the monitoring and of any matters giving rise to concern shall be maintained in a logbook. The logbook shall be made available for inspection by a Police Constable, or any other authorised person (as detailed within Section 13 of The Licensing Act 2003), upon their request.
- 8.33 A nominated representative/s from the premises, on at least one occasion every night between the hours of 10pm and closing time and then again shortly after the premises closes, shall undertake a litter-picking operation covering a 25 meter radius of the premises in all directions. Any litter/waste found during the exercise shall be placed into sealed receptacles designed specifically for the collection of waste and disposed of in an appropriate manner. Only waste receptacles owned or operated by the licensed premises, may be used for such purposes.

- 8.34 A telephone number shall be provided to all the residents of St Mary's Chambers which can be utilised by the residents should they experience public nuisance emanating from the premises.

ALCOHOL LICENSING - MANDATORY CONDITIONS

SUPPLY OF ALCOHOL

9. No supply of alcohol may be made under the premises licence –
- (a) at any time when there is no designated premises supervisor in respect of the premises licence; or
 - (b) at any time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- 9.1 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

DOOR SUPERVISION

- 9.2 Each individual required to be at the premises to carry out a security activity must be licensed by the Security Industries Authority.

MANDATORY CONDITION IMPLEMENTED ON 28 MAY 2014.

- 9.3 A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 9.4 For the purposes of the condition set out in paragraph 1 —
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) "permitted price" is the price found by applying the formula —
- Where — P is the permitted price,
- (ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994

9.5. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

9.6 (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

MANDATORY CONDITIONS IMPLEMENTED 1 OCTOBER 2014

9.7 (1). The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.”

(2) An irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to –

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective.

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective.;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner).

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

9.8 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

9.9 (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The Designated Premises Supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either

(a) holographic mark or

(b) an ultraviolet feature

9.10 The responsible person must ensure that –

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises: and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

EXHIBITION OF FILMS - MANDATORY CONDITIONS

10. No film shall be exhibited unless:

a. it has received a “U”, “PG”, “12A”, “15”, or “18” certificate of the

British Board of Film Classification; or

b. it is a current newsreel, which has not been submitted to the British Board of Film Classification.

10.1 “18” Films

No person apparently under the age of eighteen years shall be admitted to any exhibition

at which there is to be shown any film which has received an “18” certificate from the

British Board of Film Classification.

10.2. “15” Films

No person apparently under the age of fifteen years shall be admitted to any exhibition at which there is to be shown any film which has received an “15” certificate from the British Board of Film Classification.

10.3. “12A” Films

No person apparently under the age of twelve years shall be admitted to any exhibition unless accompanied by an adult at which there is to be shown any film, which has received a “12A” certificate from the British Board of Film Classification.

10.4. “PG” Films

Some scenes contained at which there is to be shown any film, which has received a “PG” certificate from the British Board of Film Classification, may be unsuitable for young children.

10.5 “U” Films

Films suitable for all is any film, which has received a “U”, certificate from the British Board of Film Classification.

10.6. Permission of Licensing Authority

Notwithstanding the above, a film may be exhibited, or persons, or any class of person, may be admitted thereto if the permission of the licensing authority is first obtained and any conditions of such permission are complied with

11 The reasons for this decision are as follows:

- 11.1 Having taken into account the 4 licensing objectives, the guidance issued under section 182 of the Licensing Act 2003, the council’s licensing policy and the Human Rights Act, the Sub-Committee sought to balance the interests of the applicant against issues raised by Mr Leach and Ms Pritchard, others persons.

- 11.2 The Sub-Committee felt it was reasonable and proportionate to allow the application with amendments subject to the conditions specified which are imposed to specifically address the concerns raised.

MINUTES END