



GENERAL LICENSING SUB-COMMITTEE
5 January 2022

ITEM 5

Report sponsor: Samantha Dennis, Director of
Public Protection and Streetpride

Report author: Angela Rawson, Service
Manager, Licensing

Application for a variation of a premises licence at: Bustler Market The Chocolate Factory Siddals Road Derby DE1 2QD

Purpose

- 1.1 An application for a variation of a premises licence at Bustler Market, The Chocolate Factory, Siddals Road, Derby DE1 2QD 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 Officers have delegated powers to deal with variations to Premises Licences applications where there are no Relevant Representations received; however this is not the case with this application and hence attendance at committee today.
- 1.4 The General Licensing Sub Committee can decide to:
 - grant the application as per the application
 - modify the conditions of the licenceor
 - reject the whole or part of the application

Recommendations

- 2.1 To consider the information in the report, consider the application and any relevant representations to determine the application for a variation of a premises licence at Bustler Market, The Chocolate Factory, Siddals Road, Derby DE1 2QD.

Reason

- 3.1 To ensure that the four licensing objectives are upheld in relation to an application to vary the premises licence at Bustler Market, The Chocolate Factory, Siddals Road, Derby DE1 2QD.

Supporting information

- 4.1 An application for a variation of a premises licence was received by Derby City Council's Licensing Team from Bustler Market Ltd on 19 November 2021. A copy is attached at **Appendix 1**.
- 4.2 The Licensing Team has received 1 relevant representation from one other person. This is 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RESPONSIBLE AUTHORITY	REPRESENTATION	REPRESENTATION WITHDRAWN	NO REPRESENTATION	NO RESPONSE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				X
Derbyshire Fire & Rescue			X	
Planning Department				X
Safeguarding Children				X
Food and Safety Team				X
Environmental Protection Team				X
Trading Standards Team				X
Local Authority			X	
Local Health Board				X
Home Office				X

- 4.4 The variation relates to:
- Extension of the terminal hour for licensable activities on Friday and Saturday of 1 hour. Licensable activities until 01.00hrs with close of premises at 01.30 hrs.
 - Non-standard times to be added for New Year's Eve of 3 additional hours. Licensable activities until 02.30 hrs with close of premises at 03.00 hrs
 - Licensable activities to include performances of dance and anything else of a similar description
 - Removal of all exiting conditions in Annex 2 of the existing premises licence and replaced with updated conditions agreed with the Police and Environmental Health (conditions attached to the application).

4.5 The current licensable activities are:

- playing of films
- a performance of live music
- any playing of recorded music
- provision of late night refreshment
- the sale by retail of alcohol

4.6 The **current** days and times of the licensable activities are:

Films (Indoors)

- Sunday to Saturday 10:00 to 24:00 hrs

Live Music (Indoors)

- Sunday to Saturday 12:00 to 24:00 hrs

Recorded Music (Indoors and Outdoors)

- Sunday to Saturday 10:00 to 24:00 hrs

Late Night Refreshment (Indoors and Outdoors)

- Sunday to Saturday 23:00 to 24:00 hrs

Sale of Alcohol (For Consumption On and Off the Premises)

- Sunday to Saturday 10:00 to 24:00 hrs

4.7 The current days and times the premises are open to the public are:

- Sunday to Saturday 10:00 to 00:30 hrs

4.8 The premises licence holder is: Bustler Market Ltd

4.9 Since the granting of the current licence, some activities have become de-regulated under the Live Music Act 2012. As from 6 April 2015, both live music and recorded music are exempt from requiring a licence, if the activity takes place between 08:00 and 23:00 hours, and the audience consists of no more than 500.

4.10 The **proposed** days and times of the licensable activities are:

Films (Indoors)

- Friday and Saturday 10:00 to 01:00 hrs

Live Music (Indoors)

- Friday and Saturday 10:00 to 01:00 hrs

Recorded Music (Indoors and Outdoors)

- Friday and Saturday 10:00 to 01:00 hrs

Performance of Dance (Indoors and Outdoors)

- Sunday to Thursday 10:00 to 24:00 hrs
- Friday and Saturday 10:00 to 01:00 hrs

Anything of a similar description to that falling within (g)

- Sunday to Thursday 10:00 to 24:00 hrs
- Friday and Saturday 10:00 to 01:00 hrs

Late Night Refreshment (Indoors)

- Friday & Saturday 23:00 to 01:00 hrs

Supply of Alcohol (For Consumption On and Off the Premises)

- Friday and Saturday 10:00 to 01:00 hrs

- 4.11 The proposed days and times the premises are open to the public are:
- Friday and Saturday 10:00 to 01:30 hrs
- 4.12 The designated premises supervisor is: Andrew Darke
- 4.13 A location plan of the premises is attached at **Appendix 3**.
- 4.14 A copy of the current premises licence is attached at **Appendix 4**.
- 4.15 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.
- 4.16 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.
- 4.17 The Council recognises the importance of securing proper integration with and attaching relevant conditions that reflect local strategies.
- 4.18 The Council has a duty to act in a manner which is compatible with the Human Rights Act 1998.

- 4.19 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.”

- 4.20 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.
- 4.21 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 i.e. Striking a fair balance between the demands of the general interests of the community and the requirement to protect the individual's fundamental rights?

Public/stakeholder engagement

- 5.1 Not applicable

Other options

- 6.1 Not applicable

Financial and value for money issues

- 7.1 Not applicable

Legal implications

8.1 Not applicable

Other significant implications

9.1 Not applicable

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal	Not Applicable to Licensing Sub Committees	
Finance	Not Applicable to Licensing Sub Committees	
Service Director(s)	Not Applicable to Licensing Sub Committees	
Report sponsor	Not Applicable to Licensing Sub Committees	
Other(s)	Not Applicable to Licensing Sub Committees	

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Background papers:	None
List of appendices:	Appendix 1 – Application Appendix 2 – Relevant Representation Appendix 3 – Location Plan Appendix 4 – Copy of Current Premises Licence