

Time commenced: 10.00AM  
Time finished:

**GENERAL LICENSING SUB COMMITTEE  
6 MARCH 2009**

Present: Councillors Baxter, Berry and Rawson

**50/08 Appointment of Chair**

**Resolved to appoint Councillor Baxter as Chair of the Sub-Committee.**

**51/08 Apologies**

There were no apologies received.

**52/08 Late Items Introduced by the Chair**

There were no late items.

**53/08 Declarations of Interest**

There were no declarations of interest.

**54/08 Application for a new premises licence at  
Broadway, Duffield Road, Derby, DE22 1JB**

The Committee considered a report from the Director of Environmental Services for an application for a new premises licence at Broadway, Duffield Road, Derby, DE22 1JB. An application for a new premises licence was received on 12 January 2009 from Mitchells & Butlers Leisure Retail Limited. A copy of the application was attached at Appendix 2. The requested licensable activity was Films, recorded music, provision of facilities for making music, provision of late night refreshment and supply of alcohol.

The Sub-Committee made the following findings of fact:

- 5.1 The use of the outside patio area in the manner proposed within the application is lawful;
- 5.2 The information provided by Derbyshire Constabulary cannot be regarded as exhaustive;
- 5.3 Notwithstanding the failure of the responsible authority to make appropriate representations in relation to noise nuisance, there is sufficient information available to demonstrate that there has been continual disturbance to neighbouring residents, arising from noise from the premises, during the currency of the existing licence (No. PL10550734);

5.4 The noise arising from the premises, in particular that caused by customers using the patio area as well as noise arising from dustbin collections after 23:00 hours but before 07:00 hours are within the legitimate control of the licence holder.

5.5 The standard of recording keeping by the licence holder prior to August 2008 was unsatisfactory;

5.6 It is generally accepted that the problems with noise will be exacerbated during the summer months;

5.7 The Designated Premises Supervisor has only been in post since November 2008 and has no personal experience of handling summertime noise complaints about the premises;

**6. The Sub-Committee has RESOLVED to grant the application for a Premises Licence for Broadway, Duffield Road, Derby in the following way:**

6.1 to provide regulated entertainment namely indoor exhibition of films and recorded music;

6.2 to provide entertainment facilities for making music;

6.3 to provide late night refreshment;

6.4 to supply alcohol.

During the following times:

<b>Activity</b>	<b>Hours</b>
Exhibition of films (indoors)	Monday –Saturday: 10:00 – 23:00 Sunday: 10:00 – 22:30
Recorded music	Monday –Saturday: 10:00 – 23:30 Sunday: 10:00 – 23:00
Provision of facilities for making music	Monday –Saturday: 10:00 – 23:30 Sunday: 10:00 – 23:00
Late night refreshment	Monday – Saturday 23:00 – 23:30
Supply of alcohol	Monday –Saturday: 10:00 – 23:00 Sunday: 10:00 – 22:30
Non-standard timings	(1) Start of permitted hours on New Year’s Eve to terminal hour on New Year’s Day; (2) An extra hour on the terminal hour on New Year’s day, Valentine’s Day, Burns Night, St. David’s Day, St. Patrick’s Day, Halloween, Boxing Day, the 27 <sup>th</sup> , 28 <sup>th</sup> and 30 <sup>th</sup> December, Friday – Monday of Easter, and the May, Whitsun and August Bank Holiday weekend’s; (3) An extra two hours on the terminal

hour of Christmas Eve;

(4) In the event of the transmission of any recognised international event which falls outside the permitted hours on the licence, permission for the licensable activities to commence one hour before the start of the event and to end one hour after the end of the event, the details of any such event/activity to be notified to the police in writing at least 10 days prior to the start of the event/activity.

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

## **MANDATORY CONDITIONS – SUPPLY OF ALCOHOL**

- 1.1 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.
- 1.2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

## **MANDATORY CONDITIONS – EXHIBITION OF FILMS**

- 2.1 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 news reel which has not been submitted to the British Board of Film Classification.
- 2.2 “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.
- 2.3 “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.
- 2.4 “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.
- 2.5 “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.

#### 2.6 “U” Films

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

#### 2.7 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.

### **MANDATORY CONDITIONS – DOOR SUPERVISION**

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

### **CONDITIONS RELATING TO CRIME AND DISORDER**

4.1 The licence holder, in consultation with the Designated Premises Supervisor and the nominated Duty Manger, shall monitor the need for the engagement of door supervisors and in so doing will take into account advice given by the police.

4.2 Where, pursuant to Conditions 7.6.3 - 7.6.5 below, the prevailing circumstances are such that on more than two occasions in any rolling 6-month period, the licence holder, the Designated Premises Supervisor or the Duty Manager consider circumstances at the premises to be so unsafe as to make it unreasonable to (i) respond to complaints made in respect of licensable activities at the premises and/or (ii) react to excessive noise arising from the premises and/or (iii) immediately secure the cessation of use on any day of the patio area, they shall within 24-hours of the relevant trigger event notify the police and the licensing authority, in writing, with a view to the implementation of measures to introduce the engagement of door staff at the premises. In this regard, the licence holder, in consultation with the Designated Premises Supervisor and the nominated Duty Manger, shall take into account advice given by the police, including but not limited to the appropriate number of door staff to be so engaged and when the door staff are to be so engaged.

- 4.3 All door supervisors engaged pursuant to condition 7.4.2 must display their name badges and carry proof of registration at all times.
- 4.4 There shall be installed at the premises, and thereafter maintained in good working order, a CCTV system that is capable of maintaining 28 days continuous capture and storage.
- 4.5 The system must be operated at all times when the premises are open to the public.
- 4.6 Download of CCTV recordings to digital media will be provided upon reasonable request by the police, and officer of the licensing authority or other authorised agency within 48 hours of such request being made to the licence holder, the Designated Premises Supervisor or the nominated Duty Manger.
- 4.7 The premises will actively participate in the Challenge 21 Scheme.

#### **CONDITIONS RELATING TO THE PREVENTION OF PUBLIC SAFETY**

- 5.1 All drinking glasses provided to customers for the consumption of drinks on the patio area shall be of toughened glass, polycarbonate or plastic.

#### **CONDITIONS RELATING TO THE PREVENTION OF PUBLIC NUISANCE**

- 6.1 You must ensure that all windows and doors remain closed except the front entrance door, which may be used for access and egress.
- 6.2 Prominent, clear and legible notices must be displayed at all exits, and in the car park and patio area, requesting customers to respect the needs of local residents and to leave the premises and the area quickly and quietly.
- 6.3 The Designated Premises Supervisor, Duty Manager or other nominated representative shall, during opening hours, receive and respond to complaints which arise from licensable activities carried on at the premises, including in relation to customers departing the premises. Either or all of them shall take any such steps as are both reasonable and safe to take to resolve any justifiable complaint. A timed and dated record of complaints together with details of any action taken shall be maintained at the premises in a 'Complaints Logbook'. If there are any concerns about safety that make it unreasonable to resolve the complaint, those details shall also be recorded in the Complaints Logbook. The Complaints Logbook (record) shall be made available for inspection to an authorised officer of the licensing authority or the police, upon request.
- 6.4 When the patio area is in use by customers after 8.00pm, the Designated Premises Supervisor, Duty Manager or other nominated representative shall patrol the patio area at least once every half hour, until close, to monitor levels of noise from customers. If, as a result of the patrols and/or further to complaints being received, noise levels are found to be

excessive and/or are likely to disturb neighbouring residential properties (i.e. unacceptable), then immediate and appropriate action shall be taken which is both reasonable and safe to take to reduce the level of noise to an acceptable level. A timed and dated record of checks together with details of any action taken shall be maintained at the premises in a separate logbook maintained specifically for that purpose. If there are any concerns about safety that make it unreasonable to take action to reduce the level of noise to an acceptable level, those details shall also be recorded in the logbook. This logbook shall be made available for inspection to an authorised officer of the licensing authority or the police, upon request.

- 6.5 Where, pursuant to undertaking the patrols referred to in Condition 7.6.4, in any rolling 1½ hour period on any day there are more than two occasions of unacceptable noise levels being recorded as arising from customers using the patio area, the Designated Premises Supervisor, Duty Manager or other nominated representative shall take such steps as are reasonable and safe to secure that the continued use of the patio area on any such day immediately ceases i.e. upon the discovery of third/trigger event.
- 6.6 Staff shall be provided with adequate training to ensure that they keep noise levels to a minimum when any persons are leaving the premises.
- 6.7 The Duty Manager shall remain on the floor at closing time on Friday's and Saturday's to monitor, so as to ensure, that noise is kept to a minimum as customers leave the premises. In this regard, the Designated Premises Supervisor, Duty Manager or other nominated representative are reminded of their obligations to retain details in the Complaints Logbook, pursuant to Condition 7.6.3.
- 6.8 Refuse, such as bottles, shall only be placed into receptacles outside the premises between 07:00 hours and 23:00 hours, in order to minimise disturbance to nearby residential premises. There shall be provided a secure means of ensuring that access to any such receptacles, which for the avoidance of doubt includes dustbins serving the premises, is prevented outside of the prescribed hours.
- 6.9 There must not be any sale of alcohol, provision of late night refreshment or provision of films outside the premises.
- 6.10 In the event that the premises are to be used for the provision of films, late night refreshment or the sale of alcohol for a recognised international event outside the standard hours, the police shall be notified in writing at least 10 days before the event is scheduled to take place.

## **CONDITIONS RELATING TO THE PROTECTION OF CHILDREN FROM HARM**

- 7.1 Children between the ages of 14 – 17 will only be allowed onto the premises if accompanied by an adult and only if participating in the

consumption of a meal. For the avoidance of doubt, no child under the age of 14 will be allowed onto the premises.

7.2 A refusals record of persons refused the sale of alcohol shall be maintained behind the bar which shall be made available for inspection to an authorised officer of the licensing authority or the police, upon request.

8. For the avoidance of any doubt and in the interest of securing that there can be proper and effective enforcement of the conditions imposed on this licence without ambiguity, and pursuant to the overriding objective of promoting the four licensing objectives, this licence shall assume precedence over the existing Premises Licence No. PL10550734 issued on 24 November 2008, from the date of the grant of this licence. In the pursuit of the objectives, the licence holder is invited to voluntarily surrender the Premise Licence No. PL10550734 in accordance with the provisions of section 28 of the Licensing Act 2003.

9. The reasons for this decision are as follows:

9.1 Having taken into account the four 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 interest of the applicant against the representations made by the interested parties, so far as they are relevant.

9.2 The Sub-Committee felt it was reasonable and proportionate to grant the application (with amendments) subject to the conditions specified which are imposed to specifically address the concerns raised by the interested parties.

9.3 The premises are located in close proximity to neighbouring dwellings. In order to protect the welfare and interests of neighbouring residents, and prevent public nuisance, the Sub-Committee considered it both reasonable and proportionate to balance the rights of the licence holder against the need to safeguard neighbouring residents' welfare and interests by the imposition of appropriate conditions.

MINUTES END