

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING SUB COMMITTEE – 30 APRIL 2015

Title of report	APPLICATION FOR A VARIATION OF A PREMISES LICENCE
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Purpose of report	To determine an application for a variation of a premises licence in respect of premises trading as Captain Kev's Burger Bar, Market Street, Ashby De La Zouch, Leicestershire. This report outlines the application and also highlights the licensing objectives, the relevant parts of Government guidance and the pertinent sections of the Licensing Authority's Licensing Policy.
Council Priorities	Business and Jobs
Implications:	
Financial/Staff	Implications arising from an appeal made to the Magistrates Court by anyone aggrieved by the decision of the Sub-Committee.
Link to relevant CAT	N/A
Risk Management	The risk of cost arising from an appeal against the decision of the Committee. In any event and in order to mitigate these risks, the Committee should give clear reasons for its decisions and any such reasons would need to be substantiated in Court.
Equalities Impact Assessment	Equality Impact Assessment already undertaken, issues identified actioned.
Human Rights	Article 1 of Protocol 1 of the European Convention of Human Rights provides that everyone is entitled to the peaceful enjoyment of his possessions, except in the public interest and subject to the conditions provided for by law.

Transformational Government	Not applicable.
Consultees	Leicestershire Fire and Rescue Service, Trading Standards, Health and Safety, Environmental Protection, Licensing Authority, Planning, Health Authority and members of the public/local businesses by way of notice at the premises, on the Council's website and at the Council Offices, Coalville.
Background papers	Guidance issued under Section 182 of the Licensing Act 2003 Statement of Licensing Policy – Issue 6
Recommendations	THAT THE SUB-COMMITTEE DETERMINE THE APPLICATION.

1. Background

- 1.1 The premises are a mobile burger bar which must be positioned between numbers 58 and 72 Market Street Ashby De La Zouch and currently hold a premises licence issued under the Licensing Act 2003. A copy of the premises licence is attached as **appendix 1**.
- 1.2 A map showing the location of the premises is attached as **appendix 2**.
- 1.3 An application for the variation of premises licence was received from Mr Shrain Tumber on 18 March 2015. A copy of the application is attached as **appendix 3**.
- 1.4 The variation of premises licence is detailed as follows.

Provision of late night refreshment

- Current permitted licensable activity is Fridays and Saturdays 23:00 to 02:30hrs the following morning. The application is to extend the terminal hour on Fridays and Saturdays to 03:30.
 - To remove condition 5 of Annex 2 – No drinks shall be sold or supplied except in plastic bottles.
- 1.5 The applicant has specified steps they intend to take in order to promote the four licensing objectives:

General – All four licensing objectives:

- The applicant will monitor each of the licensing objectives and make improvements should it be necessary.

The prevention of crime and disorder:

- The premises shall close immediately should there be any signs of crime until such time that it is safe to reopen.

Public safety:

- A first aid box shall be kept on site.
- Food Temperatures shall be logged.

The prevention of public nuisance:

- A silent running generator shall be used to minimise sound and toxic fumes.
- Outside of the premises shall be swept clean to ensure that the street is kept as clean as possible.

The protection of children from harm:

- The premises shall operate no identification no sale policy whereby no children under the age of 16 shall be served after 2100hours unless they are accompanied by an adult.

2.0 Representations

- 2.1 In respect of an application to vary the premises licence, the applicant is responsible for advertising the application by way of a notice in specified form at the premises for not less than 28 consecutive days and in a local newspaper. The applicant placed a notice in the Coalville and Ashby Times on 20 March 2015 and Officers are satisfied that the correct notices have been displayed at the premises. Details of the application were also posted onto the Council website on 19 March 2015.
- 2.2 No representations have been received from any of the responsible authorities.
- 2.3 Any other person is able to make representations within 28 days of display of the notice of application to the Licensing Authority.
- 2.4 Two representations have been received on the prevention of crime and disorder, public nuisance and public safety. Copies of the representations are attached as **appendices 4 and 5**.
- 2.5 The applicant has submitted additional information to support their application. This information is attached as **appendix 6**.

3.0 Cumulative Impact

- 3.1 The premises are situated in Market Street, Ashby De La Zouch which is within the area of the special policy on cumulative impact referred to in the Council's Statement of Licensing Policy.
- 3.2 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations will

normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

- 3.3 The Licensing Authority recognises that this policy cannot be absolute and will consider each application properly on its merit and those that are unlikely to contribute to the cumulative impact problems will be approved.

4.0 Statutory Guidance

- 4.1 In making its decision, the Sub-Committee is obliged to have regard to Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. All Licensing Committee members have been provided with a full copy of the guidance document. Officers consider that paragraphs 1.1 to 1.17, 2.1 to 2.5, 2.6 to 2.8, 2.14 to 2.18, 3.11 to 3.18, 8.42, 8.66 to 8.69, 8.72 to 8.80, 9.1 to 9.10, 9.30 to 9.39, 9.41 to 9.43, 10.1 to 10.10, 12.1, 12.10, 13.1 and 13.20 to 13.23, may have a bearing upon the application.

5.0 Statement of Licensing Policy

- 5.1 The Sub-Committee is also obliged to have regard to its own Statement of Licensing Policy. Officers consider that paragraphs 2.1 to 2.5, 3.0, 4.1 to 5.1 to 5.4, 6.1 to 6.4, 10.0, 11.0, 20.0, 22.0, 23.0, and 26.0 may have a bearing upon the application.

6.0 Observations

- 6.1 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.
- 6.2 The Committee may take such of the following steps, if any, as it considers necessary for the promotion of the licensing objectives:
- a) Grant the application as requested.
 - b) Modify the conditions of the licence, by altering or omitting or adding to them.
 - c) Reject the whole or part of the application.
- 6.3 There is a right of appeal to the Magistrates Court against the decision of the Sub-Committee by the applicant and persons who made relevant representations.