

HIGH PEAK BOROUGH COUNCIL

Report to Licensing Sub-Committee

06 August 2020

TITLE:	Application for the Grant of a Premises Licence for Clockwork Café, 30 Market Street, New Mills, High Peak, SK22 4AE.
PORTFOLIO:	Councillor Fiona Sloman
OFFICER:	Mike Towers, Senior Officer (Housing, Public Health & Licensing)
WARD:	New Mills West

Appendices Attached.

Appendix 1 – Copy of the application form and plans.

Appendix 2 – Copy of the e-mail from the applicant dated 19 June 2020.

Appendix 3 - Copy of the representations from interested parties.

Appendix 4 – Location plan to show the proximity of the objectors to the premises.

Reason for the report:

- 1.1 To hold a hearing to determine the application for the Grant of a Premises Licence in respect of Clockwork Café, 30 Market Street, New Mills, High Peak, SK22 4AE within the provisions of the Licensing Act 2003 due to relevant representations being received from interested parties.

Executive Summary

- 2.1 The above application was initially received on 22 May 2020 from Ms Joanne Jones however, it was not accepted by the Licensing Authority until 01 June 2020 due to confirmation being sought of the proposed internal licensed area. During the consultation period 9 relevant representations were received opposing the grant of the

application. However, six of these have now been withdrawn leaving three relevant representations. Therefore, the application is required to be determined by the Licensing Sub-Committee.

Background:

2.2 An application was received initially on 22 May 2020 from Ms Joanne Jones, 2 Watford Cottage, Watford Lane, New Mills, High Peak, SK22 4EN for the Grant of a Premises Licence in respect of Clockwork Café, 30 Market Street, New Mills, High Peak, SK22 4AE. A copy of the application and plans showing the internal area of the premises and the external area are attached at Appendix 1.

The licensable activities applied for are:-

- Supply of alcohol (for consumption on and off the premises):-
Every day: - 09:00 – 22:00
- Recorded music (indoors): -
Every day: - 09:00 – 22:00 (however, this would be de-regulated entertainment if the premises were permitted to sell alcohol).

The opening times of the premises applied for are: -

- Every day: - 08:00 – 22:00

2.3 In accordance with the requirements of the Licensing Act 2003 consultation on this application was conducted between 02 June 2020 and 29 June 2020 by the displaying of a public notice on the premises and in a local newspaper namely the Buxton Advertiser (11 June 2020).

2.4 On 02 June 2020 the Environmental Health Department at High Peak Borough Council and the applicant agreed to the following conditions be appended to the premises licence should it be deemed granted: -

- No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises that gives rise to a nuisance.
- All windows and external doors shall be kept closed after 21:00 hours, except for the immediate access and egress of persons.

- Loudspeakers shall not be located in the entrance lobby or external to any part of the premises.

During the consultation period Derbyshire Trading Standards Department also entered into negotiations with the applicant and the following conditions were also agreed to be appended to the licence if deemed granted: -

- Full training is provided to staff on commencement of employment on the law 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. Refresher training should be provided at regular intervals (at least yearly).
- Records detailing the training provided will be kept on the premises for production, on request, to an officer of a Responsible Authority. Records shall be retained on the premises for a minimum of 2 years
- The age verification policy applying to the premises is “Challenge 25”, that means that anyone attempting to purchase alcohol (or other minimum 18 restricted product) that appears under the age of 25 years will be asked to prove their age. The only forms of acceptable identification shall be either a photographic driving licence, a valid passport, military identification or any other recognised form of photographic identification incorporating the PASS logo. Failure to produce satisfactory proof of age will result in a refused sale.
- Clear, prominent and unobstructed signage informing customers of the age verification policy in operation will be clearly displayed at the premises.
- A system of recording sales refused under the age verification policy will be operated at all times.
- At least monthly, the Designated Premises Supervisor (or deputy, authorised in writing) will: -
 - a) examine the record and compare it against the normal operating pattern for the premises;
 - b) indicate any action required following that examination;

c) sign off/endorse the record to indicate the above points have been carried out.

- The refusal record will be kept on the premises for production, on request, to an officer of a Responsible Authority. Records shall be retained on the premises for a minimum of 2 years.

Relevant Representations

2.5 Responsible Authorities

Planning Officer – None received

Health and Safety Authority – None received

Child Protection Body – None received

Home Office Immigration – None received

Derbyshire Public Health - None received

Derbyshire Police – Confirmation of no objection received
29.06.2020.

Environmental Health Officer – Conditions agreed during the consultation period.

Derbyshire County Council Trading Standards – Conditions agreed during the consultation period.

2.6 Other Persons

During the consultation period 9 relevant representations objecting to the application were received from interested parties.

2.7 On 19 June 2020 the Licensing Authority contacted the applicant for confirmation of the usage of the outside area and to advise that representations had been received. On the same date the applicant submitted the requested information in an e-mail and volunteered the following additional conditions to be appended to the premises licence should it be deemed granted.

- The outside area will be used for consumption of food and non-alcohol and alcohol drinks only.
- The outside area will not be utilised after 19:00 hours on any day.

A copy of this e-mail is attached at Appendix 2.

2.8 On 02 July 2020 having discussed the concerns raised in the representations the applicant volunteered the following additional

conditions: -

- The supply of alcohol at the premises will only be permitted to persons as ancillary to food.
- A CCTV monitor will be positioned to cover the outside rear garden area and will be operative at all times the premises is open to the public. All CCTV images will be retained for a period of not less than 28 days and made available to Derbyshire Police upon request.

2.9 The Licensing Authority contacted all persons who had submitted a relevant representation to advise them of the conditions volunteered by the applicant. Six of these representations were then withdrawn as the objectors felt their initial concerns raised had been dealt with by the volunteering of the additional conditions.

2.10 Copies of the three remaining relevant representations are attached at Appendix 3.

2.11 The Committee are advised that the representations are based around noise levels and anti-social behaviour that may arise from the outside area, leading to disturbance to neighbouring residential properties and the potential for underage drinkers utilising the outside area.

2.12 When determining if a representation is relevant, consideration is given to paragraph 9.9 of the Section 182 guidance: -

“It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it”.

2.13 A map showing the proximity of the objectors to the premises is attached at Appendix 4.

Local Policy Consideration

2.14 In carrying out its duties under the Act, the Licensing Authority will actively promote the licensing objectives, namely: -

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance, and

- The protection of children from harm
- 2.15 The Licensing Authority will view each objective with equal importance and pay due regard to any guidance issued by the Secretary of State under section 182 of the Act and the local statement of licensing policy.
- 2.16 The Licensing Authority has the ability to deviate from both the guidance issued by the Secretary of State and/or this statement of licensing policy where the facts of a case merit it. If such an occasion does arise then full reasons for such deviation will be given as part of the published decision.
- 2.17 The Sub-Committee must also have regard to all of the representations made and the evidence it hears.
- 2.18 The Sub-Committee must take such of the following steps, as it considers appropriate for the promotion of the licensing objectives:
- (a) Grant the application as applied for.
 - (b) Modify the conditions of the licence, by altering or omitting or adding to them.
 - (c) Reject the whole or part of the application.

and for this purpose, the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.

- 2.19 The applicant or any interested party have the right of appeal to the Magistrates Court within the period of 21 days beginning with the day on which they are notified in writing of the Licensing Sub-Committee's decision.

Options and Analysis

There are no options to consider other than detailed in the report. Applications made within the Licensing Act 2003 (Hearings) Regulations 2005.

Implications

- 3.1 Community Safety - (Crime and Disorder Act 1998)

None

3.2 Employees

None

3.3 Equalities

This report has been prepared in accordance with the Council's Diversity and Equalities Policies.

3.4 Financial Considerations

There are no direct financial implications for the authority from this application, although should Ms Joanne Jones or any persons who have submitted a representation in opposition of the application, exercise their right of appeal against any decision made by the Sub-Committee, then there would be additional costs incurred by the authority in defending the decision in court.

3.5 Legal

All parties have the right of appeal to the Magistrates Court.

3.6 Sustainability.

None.

Alicia Patterson

Operations Manager – Environmental Health

Background Papers

Location

Contact

Web Links and

Licensing Section

Mike Towers

Background Papers

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High Peak Borough Council

Licensing Policy:- 2010

Amended Guidance issued under
Section 182 of the LA2003