



## **BIRMINGHAM CITY COUNCIL**

### **LICENSING SUB COMMITTEE C**

**26 October 2016**

#### **Appetizing Delights, 109 Witton Lodge Road, Perry Common, Birmingham B23 5JD**

That the application by Appetizing Delights Ltd for a premises licence in respect of Appetizing Delights, 109 Witton Lodge Road, Perry Common, Birmingham B23 5JD be granted as submitted on the basis that the Applicant has now removed the provision of live music and recorded music from the scope of the application, as agreed with Environmental Health, Birmingham City Council;

AND

Subject to the imposition of an additional condition within the operating Schedule, namely, that the premises licence holder will ensure that the curtilage outside the premises is swept up and any litter is disposed of, before the premises open to the public and prior to the close of the premises each day, in order to promote the prevention of public nuisance objective in the Act.

The Sub-Committee's reasons for imposing these agreed/volunteered conditions are due to the submissions made by other persons regarding the location, impact of the proposed operation, likelihood of public/noise nuisance, anti-social behaviour and litter within or in close proximity to a shopping and residential area.

The Sub-Committee carefully considered the operating schedule put forward by the applicant and the likely impact of the application but did not accept that there was evidence of a significant public nuisance/risk to crime and disorder, risk to public safety, arising from the proposed/current operation of the premises.

However, the concerns of the other persons and Environmental Health as a responsible authority were taken into account by imposing suitable conditions that would allay their apprehension and fear about the potential for disturbance/trouble/an increase in litter arising in connection with the proposed operation of the premises. The Sub-Committee noted that a majority of the representations related to the provision of regulated entertainment, namely, the playing of recorded and live music.

However, following discussions with Environmental Health, the applicant had agreed to remove both live music and recorded music from the scope of their application on the grounds of public nuisance. It should be noted that the provision of Live Music is subject to the Live Music Act 2012 which de-regulated or suspended the licensing of live music between 0800 hours and 2300 hours in on-licensed premises.

The Sub-Committee considers the conditions imposed to be appropriate, reasonable and proportionate to address concerns raised.

In addition to the above conditions, those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the information in the application, the written representations received and the submissions made at the hearing by the applicant and their adviser.

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.