

# Report to Licensing Sub Committee 2

**7 August 2023**

<b>Subject:</b>	Application for the grant of a New Premises Licence at Burger & Sauce, 560 Bearwood Road, Smethwick B66 4BS.
<b>Director:</b>	Director – Borough Economy – Alice Davey
<b>Contact Officer:</b>	Kiran Dubb Licensing Officer licensing_team@sandwell.gov.uk

## 1. Recommendations

1. To consider the application for the grant of a new premises licence under section 17 of the Licensing Act 2003 in respect of Burger & Sauce, 560 Bearwood Road, Smethwick B66 4BS.
2. Each application must be considered on its merits taking into account the evidence presented at the hearing, and the Guidance issued under Section 182 of the Licensing Act 2003 and the Council’s Licensing Policy. The options that can be considered once evidence has been heard are detailed at section 5.


## 2. Reasons for Recommendations

- 2.1 The Licensing Sub Committee is asked to make a decision on the application based on any evidence presented at the hearing taking into account the Guidance issued under Section 182 of the Licensing Act 2003 and the Council’s own Statement of Licensing Policy and to give reasons for their decision.



2.2 To consider an application for the grant of a new premises licence in respect of Burger & Sauce, 560 Bearwood Road, Smethwick B66 4BS following receipt of representations from local residents objecting to the grant of the application due to Public Safety, The Prevention of Public Nuisance and The Protection of Children from Harm.

### 3. How does this deliver objectives of the Corporate Plan?

	<p><b>A strong and inclusive economy</b> Investing in people and jobs. Licensed premises provide employment in the Borough and help to support the Borough's economy.</p> <p>It is the Authority's aim to offer a wide choice of high quality and well managed entertainment and cultural venues within a safe, orderly and attractive environment; valued by those who live here, work here and come to visit. We want to ensure that businesses operate responsibly and safely so that our residents live in decent neighbourhoods and have a good quality of life.</p>
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### 4. Context and Key Issues

- 4.1 Under the Licensing Act 2003, a responsible authority or any other person may make representations in respect of the application which must be relevant to one or more of the four licensing objectives, namely:
- The Prevention of Crime and Disorder
  - Public Safety
  - The Prevention of Public Nuisance
  - The Protection of Children from Harm
- 4.2 Representations has been received from local residents. Copies of the representations are attached at Appendix 2.

### CURRENT POSITION

- 4.3 An application has been made by KMBS 1 Limited for the grant of a new premises licence.
- 4.4 A copy of the full application is attached at Appendix 1.



- 4.5 The application is for Late Night Refreshments (Indoors only) Monday – Sunday 23:00 – 04:00.
- 4.6 The proposed hours the premises will be open to the public is Monday – Sunday 11:00 – 04:00.
- 4.8 **Operating Schedule/Proposed Conditions**

### **General**

Crime, disorder, public safety and public nuisance will be contained by trained members of staff should any incident happen the responsible authority will be notified. CCTV is in operation 24/7 with notices/signs containing warnings to users. The café will also have at least 1 Member of staff who will be trained for first aid.

### **The prevention of crime and disorder**

Signage will be put up to state any persons to causer a nuisance, fighting or any drug related offences will be banned from the premises. Should any serious incidences occur members of staff will notify the responsible authority. CCTV will be installed to the satisfaction of West Midlands Police. This will be in operation whenever the premises is open to members of the public. It will maintain recordings for 28 days. The recordings of which will be made available immediately by a member of staff on reasonable request of a responsible authority.

### **Public Safety**

There will be at least one member of staff who has first aid training at any one time. Should any incidents happen; the trained member of staff will assess the situation and call emergency services when appropriate. All incidences will be logged by all staff.

### **The prevention of public nuisance**

Should trouble/public nuisance occur outside the premises staff will inform the appropriate authority and will work with any authorities



involved if required to control a situation. All members of staff are given training for different situations.

### **The Protection of children from harm**

No adult services, activities or entertainment to be provided at the premises at any time. All training records for all staff, in regard to drunkenness, and for the protection from harm for children to be maintained and to be available upon request from any regulatory body.

4.9 Under the licensing objectives General and The Prevention of Crime and Disorder above, the applicant states that the CCTV is in operation 24 hours a day, 7 days a week and that the CCTV will be in operation whenever the premises is open to members of the public The CCTV operating times have been clarified with the applicant in Appendix 3.

4.10 A location map of the premises is attached at Appendix 4.

### **4.11 Consultation (customers and other stakeholders)**

A notice has been published in a local paper and a public notice has been displayed at the premises outlining the application and inviting comments/representations to be sent to the Licensing Authority, detailing a closing date for these to be received. Details of the application were also published on the Council's website.

## **5. Alternative Options**

5.1 The options available to the Licensing Sub-Committee having considered all the relevant information are as follows:

- to grant the licence subject to conditions consistent with the operating schedule accompanying the application, and any mandatory conditions which must be included in the licence
- to exclude from the scope of the licence any of the licensable activities to which the application relates;
- to refuse to specify a person in the licence as the premises supervisor;



- to reject the application

5.2 Conditions may be altered or omitted, or any new condition added.

5.3 Additional conditions or restrictions to licensable activities and/or times should only be imposed if considered appropriate for the promotion of the licensing objectives. If other law already places certain statutory responsibilities on a premise, it would not be appropriate to impose similar duties.

5.4 Members of the Sub Committee should be advised that the applicant, or any other person who made relevant representations in relation to the application, may appeal against the decision made to the Magistrates' Court within 21 days of the date on which they were notified.

## 6. Implications

<b>Resources:</b>	<p>There are no direct strategic resource implications associated with this application.</p> <p>In respect of premises licence applications, we do not foresee any issues in respect of sustainability of proposals.</p> <p>The application relates to a privately owned property.</p>
<b>Legal and Governance:</b>	<p>Members of the Licensing Sub Committee when making their decision on the application must take into account the four licensing objectives, the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy. The applicant and those who have made relevant representations have the right to appeal the decision made by the Licensing Sub Committee to the Magistrates Court, so the Committee are asked to give reasons for their decision wherever possible.</p> <p>Members of the Sub-Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the applicant and/or the licence holder and shall only determine the</p>



	application having had an opportunity to consider all relevant facts.
<b>Risk:</b>	<p>The Police are a statutory consultee for all Licensing Act 2003 applications. Prevention of Crime and Disorder is one of the four licensing objectives and applicants have to demonstrate how they will achieve this objective by volunteering measures in the operating schedule submitted with the Licence application.</p> <p>The Police have not made a representation to this application.</p> <p>Whilst full details of the application and any representations have been shared with the committee members, only information that is in the public domain has been made available for the reports that have been made public online, in line with data protection protocols.</p>
<b>Equality:</b>	<p>The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society.</p> <p>The operators of this premises are responsible for complying with all relevant legislation.</p>
<b>Health and Wellbeing:</b>	This is not applicable to applications for premises licences submitted under the Licensing Act 2003.
<b>Social Value</b>	This is not applicable to applications for premises licences submitted under the Licensing Act 2003.

## 7. Appendices

- Appendix 1 – Application Form
- Appendix 2 – Representations
- Appendix 3 – Confirmation of CCTV Operational Times
- Appendix 4 – Location Map

## 8. Background Papers



- Sandwell Metropolitan Borough Council Licensing Policy
- Guidance issued under Section 182 of the Licensing Act 2003
- The Licensing Act 2003 (Hearings) Regulations 2005

