

**Notice of Determination in respect of an application for a premises licence for  
Junkyard Market Dojo, 23B St Marys Works, St Marys Plain, Norwich NR3 1QA**

Licensing Sub-Committee date – 22 March 2022. This hearing was held remotely.

Members of committee present– Councillors Stutely (Chair of committee), Giles and Sands (S).

Applicant - After Dark Promotions Ltd, company number 11881533

List of attendees:

	<b>Name</b>	<b>Role</b>
1	Cllr Adam Giles	Committee member
2	Cllr Sue Sands	Committee member
3	Cllr Ian Stutely	Committee member
4	Leonie Burwitz	Committee Officer
5	Maxine Fuller	Licensing Officer
6	Michael Femi-Ola	for the applicant
7	Gavin Tempest	Licensing Consultant representing the applicant
8	David Lowens	Solicitor, legal advisor to committee

**Summary Notes of Hearing**

There were no apologies received, nor were any declarations of interest made.

In addition to the papers contained in the agenda councillors had received the following additional documents from the applicant, which had been circulated to all parties other than to two members of the public who had not provided email contact details: Annotated plans regarding reported/recorded crime between Nov 2019 and Oct 2020, and between Nov 2020 and Jan 2022, jotform google neighbour responses, a communication providing link to jotform addressed to residents (undated), questionnaire (undated), streetplan with distribution routes and an amended plan showing the areas sought to be licenced.

In addition, councillors had available and had noted email communications between the applicant's representative and the Norfolk Constabulary dated 4 March 2022 and a response from Mr N Broughton to the further information from the applicant.

Mr Femi-Ola and Mr Tempest addressed committee. It was mentioned that the intention was to turn the Dojo into a competitive socialising space, the activity changing regularly. It was expected to start with crazy golf. Value would be added to a building currently lacking a use.

Noting the new student accommodation in the area and a further 700 students shortly to arrive in the area the comments from local residents were not felt to be

completely valid. The business would employ up to 25 persons and was pledged to give value to local contractors.

Mr Tempest mentioned that the entry and exit to the St Marys Works site would be regulated. The sought hours of operation were 12:00 to 23:00 but the sale of alcohol was proposed to 22:30, thus including half an hour for dispersal/drinking up. Persons would leave via the courtyard area. He suggested that the hours sought were not late hours by comparison to other businesses and noted that the applicant had met with the police and the Public Protection team whose feedback was incorporated into the application.

Mr Tempest noted that some neighbours were unhappy at the proposals. The applicant had engaged with Cllr Osborn who had seen the site. On Cllr Osborn's recommendation the applicant had written to local residents. One of the letters was provided in additional papers, due to issues with the first letter of 14 Jan a further letter with a weblink was sent on the 17 Jan. Survey responses had been provided within the additional documents.

Advice had been taken from Richard Divey of the council's Public Protection team regarding operating conditions.

The operator was experienced regarding covid precautions and changing regulations, and CCTV coverage had been agreed with the police. Entry and exit would be via Duke Street.

Legal advice was given from Mr Lowens as to the suitability of the noise management plan condition wording and whether it was insufficiently certain, the applicant was invited by the Chair to review that wording.

Mr Femi-Ola addressed committee, and in response to a question from the Chair as to planning approval mentioned that the applicant wished to be certain as to Licensing Act 2003 permissions prior to dealing with planning permission but that they intended to obtain expert assistance with any planning application.

Mr Tempest addressed committee about the provided crime statistics taken from public sources, noting that committee was not considering the current premises licence held by the Junkyard but that the local crime data was relevant to the application noting the concerns of some local residents. He had included recorded crimes of anti-social behaviour and public order. Precise locations were not accurate, due to the way the figures were recorded, nor had times of day been recorded. It was not possible to match these records to failures by the Junkyard premises. In summary he viewed the figures as showing that not much behaviour of concern happened in the area which was considered by residents sufficiently problematic for them to call the police.

The applicant has been meeting local residents and carried out due diligence. Mr Tempest concluded this part of the presentation by inviting committee to consider the applicant a competent licence holder.

The Chair then questioned the applicant about the crime figures they had provided and other data, suggesting that issues related to the Junkyard. Mr Tempest

responded that he did not feel anything on the plans could be shown to be connected to that premises. Legal advice was given regarding the use of statistics that were not within the papers and the Chair agreed that any such material would be discarded and not considered.

The applicant was asked by Cllr Sands to give more detail regarding the measures intended to be in place to protect children.

Mr Tempest responded that the premises were intending to be family friendly, opening at midday. It was intended to introduce age restrictions; adults were expected to be present. The Chair invited the applicant to prepare wording for their intended operating schedule which could be provided to committee later in the hearing.

The applicant was asked by Cllr Giles to give more detail regarding the proposed dispersal policy. Mr Tempest noted that this was to be agreed with the police but to include signage and a physical presence. Legal advice was given that the current wording of the proposed condition did not adequately cover the agreement of the police and the Chair asked for the applicant to review their wording of this proposed condition also.

The Chair asked about the intended anti-spiking controls at the premises, noting that there was nothing in the proposed operating schedule dealing with this concern. Mr Femi-Ola responded that the premises were part of a new pilot scheme with the Norfolk and Norwich Hospital regarding the provision of test kits and collection of data. Anti-spiking kits were available at the venue. Staff training was given

The legal adviser asked Mr Femi-Ola whether the availability of test kits was proposed as an operating schedule condition. He responded that this was not an offered condition, it was a pilot scheme, and the premises did not control the supply of kits. Mr Femi-Ola also confirmed that the premises was happy to take part in training whilst this was provided by the Norwich Bid but this was not an offered condition either.

The Chair then asked the applicant to respond to some matters of concern mentioned in the written representations.

Mr Femi-Ola said that marshalling of persons in the Duke Street area still went on but that the applicant had heard on social media that a resident had complained, saying that the Marshall asking persons to be quiet was causing extra noise. The presence had therefore been reduced. Marshalls were still provided proportionately to the numbers leaving. There had been an issue under covid restrictions with a 10pm curfew causing a large number to leave at once, that was no longer seen. A complaint had also been made regarding the management using an amplified speaker to tell persons leaving to be quiet, as the noise of that was unwelcome.

Mr Tempest suggested that it was difficult to regulate the behaviour of persons once they had left the premises and suggested there was no direct link between persons leaving and traffic problems.

The legal advisor mentioned the s182 statutory guidance regarding personal responsibility and persons outside the control of the premises licence holder.

The Chair noted that there were a large number of local objections by the standard of those generally seen at licensing sub-committees and these gave the lived experience of those in the area.

Mr Tempest responded that persons could have a mistaken perception, no bottles for example left the site so complaints regarding broken bottles could not be the fault of the premises management.

Mr Femi-Ola mentioned the litter picking which he took part in, and the rubbish which he saw on his way to and from work in Duke Street. Many things seen were not provided by the premises. He confirmed that drinks were not served in bottles. Litter was picked up regardless of the likely source. He confirmed that a reasonable area was covered in the litter pick.

Mr Femi-Ola mentioned the meeting held with residents which was attended by Cllr Osborn, as an example of seeking to be good neighbours.

Staff were trained regarding intoxication warnings, and the management also patrolled the site to spot and deal with this issue. There was no excessively cheap pricing of alcohol. Regarding taxis, the applicant had reminded local taxi companies that collection should be within the car park.

Mr Tempest noted that he had carried out a covert and then an overt visit to see how the premises functioned, noting the actions of doorstaff and serving staff. He did not note any issues of concern. He noted that it would not be obvious to the public who attended the meeting with the applicant when actions in response were taken.

At the request of the Chair the applicant detailed when the Junkyard was open and suggested that other premises of a similar nature in the city centre were open longer.

*A break was taken for the applicant to consider further wording in respect of the under 18's policy, dispersal policy and noise management policy in private.*

The licensing sub-committee reconvened, and the applicant provided the following additional conditions as part of their operating schedule:

1. No customers under 18 years old are to be allowed to stay on the premises after 19:30.
2. Customers under the age of 18 will be allowed on the premises only if accompanied by an adult.
3. Any recommendations of the Environmental Protection team in respect of the noise management plan will be complied with within a reasonable time. *(note however the imposed condition below).*
4. Signage will be displayed at the Junkyard Dojo advising customers to leave quietly and with respect for neighbours.
5. All relevant website and social media posts will note that customers are asked to respect the neighbours when leaving the site at the end of their visit/experience.

6. Acknowledgment of bookings will include advice that customers should leave the site with respect for neighbours.
7. The premises licence holder will encourage local taxi firms to collect customers inside the St Marys Works site.
8. On the Facebook biography and on the premises' website there will be mention that customers arranging collections by taxi should ensure these are arranged for inside the St Marys Works site.
9. The premises licence holder shall ensure that staff have training regarding drink spiking vulnerabilities.

Cllr Sands noted that this site was at some point to be redeveloped and that this was effectively a temporary application, Mr Femi-Ola agreed that the intended use would not be permanent, but the available time was subject to redevelopment and outside the control of the premises licence holder. The business provided a solution to developers and avoided a problem of empty spaces. It was not the intention of the applicant to stay at the Junkyard Dojo. The applicant expected a twelve month use and hoped for a two- or three-year use but the site could come up for redevelopment at any time. If redevelopment appears likely next month for example, then this project would not proceed.

Mr Tempest summed up the application and suggested to the councillors that it was important to be pragmatic, there was a need to stick to and concentrate on the licensing objectives, there had been an extensive conversation with local residents, there were a small number of objectors and committee should give weight to the lack of any remaining police representation especially regarding the crime and disorder licensing objective.

The Chair regretted that those making representations were not present to be spoken to.

Committee then considered their decision in private.

Committee noted that the additional conditions proposed by the correspondence with the Norfolk Constabulary, other than the under 18's policy and dispersal policy which are dealt with above were:

1. A written risk assessment to assess the requirement for security staff will be kept at the premises and available to the police or the licensing authority on request.
2. The occupancy of the premises will be monitored by management and door supervisors.
3. Staff training will include counter-terrorism awareness.
4. The premises shall install and maintain a CCTV system to cover the main public areas of the premises. All entry and exit points will be covered, enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping.

5. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a police or authorised council officer of recent CCTV images or data when requested.

### **Decision of committee**

Committee noted the amended application plan. The application was approved, with the imposition of one condition which replaces offered condition 3 above involving the noise management plan:

*Any recommendations of the Environmental Protection team of the council in respect of the noise management plan will be complied with within a reasonable time, except that prior to the premises licence being used for the licensable activities of the playing of live music, recorded music or the provision of anything of a similar description to live music, recorded music or performances of dance any recommendations of the Environmental Protection team shall be introduced and implemented fully.*

### **Reasons for the committee's decision**

Committee regretted that it had not proved possible to hear directly from any member of the public. This also put the applicant in some difficulty as it meant that the relevant representation contents could not be challenged by questioning.

The majority of issues described by local residents as causing them concern involved anti-social behaviour by members of the public, some of whom are likely to have been customers of the Junkyard but which occurred in areas beyond the control of the premises licence holder. It was felt unreasonable to limit hours or refuse the licence due to anti-social behaviour which was a matter of personal responsibility as stated under the s182 guidance.

There were representations made regarding noise from music and from the DJ and suggesting that noise from the first floor of the premises would not be adequately contained. Noting this risk, and noting the obligation on the applicant to provide evidence that suitable and sufficient measures, as detailed in the operating schedule, will be implemented and maintained, relevant to the individual style, location and characteristics of their premises and activities (paragraph 3.4 of local policy, similar requirements are contained in para 8.47 of the national guidance) the committee felt that it is appropriate to introduce the reworded condition as to the noise management plan, to ensure necessary noise mitigation takes place prior to possible nuisance arising.

Committee notes that many matters causing concern to local residents cannot be the responsibility of the management of the currently licensed adjacent premises of the Junkyard, for example the discarding of glass bottles, and gives weight to the evidence of Mr Femi-Ola as to the matters he has found when taking part in litter collection.

Committee notes and gives weight to the views of the police, expressed via the acceptability of the application to them once conditioned and notes the withdrawal of

their representation. Committee notes the police are their prime source of advice and assistance under the crime and disorder licensing objective.

Committee notes and gives weight to the proposed conditions presented by the applicant with the assistance of the police and feels that with the imposition of the condition as to compliance with noise recommendations the proposals as presented should be in accordance with the licensing objectives.

Regarding the imposed condition, committee was concerned that noting the relatively short term intended use and the lack of evidence as to the suitability of the premises or otherwise from the Environmental Protection team and a complete lack of detail as to the type of works which may be necessary, then a condition requiring works within a reasonable time held a significant risk that necessary works would not be implemented in sufficient time to avoid public nuisance arising.

### **Rights of appeal**

Rights of appeal are set out in Schedule 5 of the Licensing Act 2003.

The holder of the licence may appeal against any decision—

(a) to impose conditions on the licence under subsection (2)(a) or (3)(b) of section 18, or

(b) to take any step mentioned in subsection (4)(b) or (c) of that section (exclusion of licensable activity or refusal to specify person as premises supervisor).

Where a person who made relevant representations in relation to the application desires to contend—

(a) that the licence ought not to have been granted, or

(b) that, on granting the licence, the licensing authority ought to have imposed different or additional conditions, or to have taken a step mentioned in subsection (4)(b) or (c) of section 18,

they may appeal against the decision.

Any appeal should be raised with a magistrates' court within 21 days of receipt of the written decision appealed against.

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line and a small flourish.

Signed.....Chair, Licensing Sub-Committee.

24 March 2022