BABERGH DISTRICT COUNCIL

TO:	**Licensing Sub-Committee**	**REPORT NUMBER:**	**B/LASub/21/1**
FROM:	**Jo Wyatt - Assistant Manager, Food, Safety & Licensing**	**DATE OF MEETING:**	**12 November 2021**
OFFICER:	**Katherine Green – Licensing Officer**	**KEY DECISION REF NO.**	**N/A**

LICENSING ACT 2003 – HEARING TO DETERMINE AN APPLICATION MADE FOR THE GRANT OF A NEW PREMISES LICENCE – OLD JOE'S CAFÉ & BISTRO, OLD JOES GOLF & LEISURE CENTRE, JOES ROAD, CORNARD TYE, SUDBURY, CO10 0QB

1. Purpose of Report

1.1 To report information to the Sub-Committee to enable the determination of an application made for the GRANT of a NEW premises licence by Mr Burcin Bayazit in relation to the above premises.

2. Recommendations

2.1 The Sub-Committee must, having regard to the representations made, take such of the steps below (if any) as it considers appropriate for the promotion of the licensing objectives:

- to GRANT the licence subject to conditions which are consistent with the operating schedule accompanying the application - modified to such extent as the authority considers appropriate for promotion of the licensing objectives - and subject to any mandatory condition(s) 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 premises supervisor; or
- to REJECT the application.

For these purposes conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

That the Sub-Committee determines this application at the hearing.

3. Financial/Legal Implications

3.1 There is a statutory right of appeal to the magistrates' court for any party aggrieved by the decision taken by the Licensing Authority.

4. Risk Management

4.1 None, other than those that inherently apply to the Licensing Authority when carrying out its licensing functions. The four licensing objectives are prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.

5. Consultations

5.1 The application made has been subject to the statutory consultation period as prescribed by regulation. The notices advertising the application have been on display at the premises and published in the West Suffolk Mercury – 29 September 2021 edition.

6. Equality Analysis

6.1 There are no equality impacts arising directly from the matters contained within this report.

7. Key Information

7.1 The hearing is to determine an application for the GRANT of a NEW premises licence made under section 17 of the Licensing Act 2003. A copy of the application was received on 21 September 2021. This is attached as **Appendix A** to this report.

7.2 The application has been submitted by:

Burcin Bayazit

For the proposed licensed premises:

Old Joes Café & Bistro, Old Joes Gold & Leisure Centre, Joes Road, Cornard Tye, Sudbury CO10 0QB

The designated premises supervisor DPS is:

Burcin Bayazit (yet to hold a personal licence but will be with Babergh District Council)

7.4 The information provided with the application outlines the following licensable activities: sale and supply of alcohol (for consumption both ON and OFF the premises), recorded and live music (indoors and outdoors), anything of a similar description (indoors and outdoors) and late-night refreshment (indoors and outdoors for nonstandard timings only).

7.5 Full details of the proposed activities, timings and steps proposed by the applicant to promote the licensing objectives in the operating schedule (part M) are contained within the application form attached to this report as **Appendix A.**

7.6 The plan detailing the areas to be licensed are attached to this report as **Appendix B**.

7.7 A hearing is necessary to determine the application following receipt of representations which have not been withdrawn. The Sub-Committee will be aware that its consideration is confined to promotion of the four licensing objectives and the 'need', or commercial demand, for licensed premises are not considerations for the Licensing Authority when discharging its licensing functions (as outlined by the Secretary of State at paragraph 14.19 of the Guidance issued under section 182 of the Licensing Act 2003).

7.8 The Licensing Authority must carry out its functions under the Act with a view to promoting the licensing objectives, which are:

(a) the prevention of crime and disorder;
(b) public safety;
(c) the prevention of public nuisance; and
(d) the protection of children from harm

7.9 In carrying out its licensing functions, the Licensing Authority must have regard to its Statement of Licensing Policy published under section 5 of the Act, and any guidance issued by the Secretary of State under section 182 of the Act.

7.10 Where revisions are made to the legislation or guidance issued by the Secretary of State, there may be a period of time when the local Statement of Licensing Policy is inconsistent with these revisions. In these circumstances, the Licensing Authority will have regard, and give appropriate weight, to the relevant changes, guidance and its own Statement of Licensing Policy.

7.11 The Sub-Committee will also be aware of Human Rights Act 1998 considerations - specifically Article 6 and Articles 8 and 1 of Protocol 1 when determining applications for the grant of a new licence.

7.12 Members of the Sub-Committee will be aware that the Licensing Act 2003 is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and therefore beyond the direct control of the individual, club or business holding the licence, certification or authorisation concerned. Nonetheless, the Licensing Act 2003 contributes towards a holistic approach to management of the evening and night-time economy (as outlined by the Secretary of State at paragraph 14.13 of the Guidance issued under section 182 of the Licensing Act 2003 and Babergh District Council's Statement of Licensing Policy at 1.9).

7.13 Members of the Sub-Committee will be aware of Statutory the Secretary of State's guidance at paragraph's 14.64 and 14.65, which states that planning and licensing are different regimes, and neither is bound by the others decisions. There are circumstances when as a condition of planning permission; a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

7.14 Public nuisance is given a statutory meaning in many pieces of legislation, however under the Licensing Act 2003 it is not narrowly defined and retains its broad common law meaning (as outlined in by the Secretary of State at paragraph 2.16 of the Guidance issued under section 182 of the Licensing Act 2003).

7.15 The Licensing Authority's general approach to considering licensing hours is contained within section 6 of the local Statement of Licensing Policy, and section 7 guides on relevant representations.

8. Representations

8.1 The Licensing Authority has received no representations from any of the Responsible Authorities under the Licensing Act 2003. Environmental Health as a Responsible Authority under the Act have undertaken mediation on their areas of concern and the applicant has agreed the inclusion of two conditions attached as **Appendix D** to this report.

8.2 There have been two representations received made by 'other persons' (which includes local residents, businesses and residence association). These are attached as **Appendix C** to this report.

9. Appendices

Title		Location
(a)	Application for GRANT of NEW premises licence	Attached
(b)	Plan detailing the areas to be licensed	Attached
(c)	Representations received from 'Other Persons'	Attached
(d)	Amended conditions as Agreed with the Applicant and Environmental Protection Team as a Responsible Authority under the Licensing Act 2003	Attached

10. Background Documents

10.1 The Licensing Act 2003

10.2 Guidance issued under Section 182 of the Licensing Act 2003

10.3 Babergh District Council's Statement of Licensing Policy