

Minutes of: LICENSING HEARING PANEL

Date of Meeting: 6 October 2020

Present: Councillor T Holt (in the Chair)
Councillors J Grimshaw and I Schofield

Also in attendance:

Public Attendance: No members of the public were present at the meeting.

Apologies for Absence:

1 DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

2 APPLICATION FOR A PREMISES LICENCE TO BE GRANTED UNDER THE LICENSING ACT 2003 IN RESPECT OF EAT NEW YORK, 24 BURY NEW ROAD, PRESTWICH, M25 0LD

The applicant for the licence in respect of the above premises is New York Limited, 82 The Greenhouse, MediaCityUK, Salford, M50 2EQ. Mr Jonathan Malcom David Leathley, 55 Clifton Road, Prestwich, M25 3HG is the proposed Designated Premises Supervisor (DPS).

The application is for the grant of a Premises Licence under Part 3 of the Licensing Act 2003:

The Applicant had complied with all the necessary procedural requirements laid down by the Act.

Representations in respect of the application were received within the appropriate period from the Licensing Authority in its capacity as a Responsible Authority.

All written representations were contained within the written submissions provided in the report to the Panel.

All documentary evidence comprising the application, the report provided with the agenda and representations were served on all parties in advance of the hearing.

The operating schedule shows the following:

- a. Supply of alcohol – For consumption On/Off the Premises.
Monday to Sunday 08.00 until 01.00
- b. Provision of Live Music (Indoors)
Monday to Sunday 08.00 until 01.00
- c. Provision of Late Night Refreshment (Indoors)
Monday to Sunday 23.00 until 01.30
- d. Opening Times.
Monday to Sunday 07.00 until 01.30

It was reported that since the application had been submitted the applicant, Mr Leathley and his legal representative, Ms Ingram had contacted local residents and PC Greg Scott to discuss the application and following this the operating schedule and the attached conditions had been reviewed and updated;

The updated operating schedule was reported as showing the following:

- a. Supply of alcohol – For consumption On/Off the Premises.
Monday to Sunday 12.00 until 01.00
- b. Provision of Late Night Refreshment (Indoors)
Monday to Sunday 23.00 until 01.30
- c. Opening Times.
Monday to Sunday 10.00 until 01.30

The Panel heard oral representations from Ms Rebecca Ingram, the solicitor representing the Applicant. She confirmed that agreement had been reached as stated by GMP. Ms Ingram reported that one condition that the Police had requested was in relation to the number of people on site at the premises at any one time – including staff as being 20. Ms Ingram had requested that this be increased to 25 and PC Scott had agreed to this increase.

Ms Ingram explained that Mr Leathley, the applicant had asked that his apologies be expressed to the local residents in relation to the initial application and the concerns and worries that it had raised. Mr Leathley had never intended for the premises to be used as a bar or late night drinking establishment and had included the live music part of the application in error.

It was explained that the premises would be mainly a takeaway with delivery service and with the option to purchase alcohol to drink while awaiting an order or to be delivered with a takeaway.

Ms Ingram referred to the objections that had been raised by local residents relating to anti-semitic abuse, anti-social behaviour and dispersal times and the protection of children. It was explained that Mr Leathley would not tolerate any form of anti-semitic or anti-social behaviour on or near his premises. It was not anticipated that something like this would arise as the premises would not be a drinking destination. Ms Ingram also explained that condition 29 of the updated conditions stated no person under the age of 18 shall be permitted to remain on the premises after 22.00 hours except when present with a responsible adult.

PC Scott representing GM Police confirmed that he had discussed the updated operating schedule and conditions with Mr Leathley and Ms Ingram and he stated that there were no longer any GM Police concerns in respect of the application and the increase from 20 to 25 people on site had been confirmed.

Local residents, Mr and Mrs Salzer were in attendance at the meeting and raised their concerns in relation to the application. Mr Salzer explained that there had been a number of concerns raised by local residents in relation to the application.

Mr Salzer asked what would happen if the licence were transferred to another owner and whether they could extend the operating schedule if this was to happen.

Mr Salzer also reported that his main concerns were in relation to noise being produced by the premises at unsociable times.

Mr Bridge explained what would happen in relation to the licence if the premises were to be taken over by a different owner. Mr Bridge also explained about the Licence Review process that could be followed if a resident felt that a premises was not adhering to the conditions of its licence.

Ms Ingram explained that the condition 27 stated that no refuse shall be disposed of or collected from the premises between the hours of 00.00 and 0700 where such disposal or collection is likely to cause disturbance to local residents.

All parties were offered the opportunity to sum up their case.

The Panel then duly retired to consider the application and all of the information provided.

The Members of the Panel were advised by the Legal Officer as to their duties under Section 4 of the Licensing Act 2003 to at all times consider the promotion of the Licensing Objectives, these being:

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

The Members were also advised of their duties in carrying out those functions in relation to:

- a) the Council's published Statement of Licensing Policy
- b) the Guidance issued by the Secretary of State as contained in section 182 of the Licensing Act 2003, which was updated in April 2018

In addition Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives and the representations presented by all parties.

The Panel also had regard to the European Convention on Human Rights and in particular that everyone has the right to peaceful enjoyment of his possessions, respect for his private and family life, his home and his correspondence. A fair balance between competing interests must be considered.

FINDINGS

The following facts were found:

The applicant and his legal representative had liaised with local residents, local Councillors and the Responsible Authority to review and update both the operating schedule and the conditions to be attached to the licence so that all concerned were satisfied.

The applicant had apologised for any upset and worry that had been caused by the incorrect application in relation to live music.

The applicant would be happy for local residents to have his mobile telephone number should they have any concerns.

Delegated decision

1. That the premises licence be granted as set out in the updated operating schedule:
 - a. Supply of alcohol – For consumption On/Off the Premises.
Monday to Sunday 12.00 until 01.00
 - b. Provision of Late Night Refreshment (Indoors)
Monday to Sunday 23.00 until 01.30
 - c. Opening Times.
Monday to Sunday 10.00 until 01.30
2. That the following conditions are attached to the licence:
 1. The premises are to operate an effective CCTV system which is to be maintained in good working order at all times the premises is open for business. The recording medium (e.g. disks / tapes / hard drive, etc.) and associated images are to be retained and securely stored for a minimum period of 28 days and are to be made available to the police / authorised officers of the Licensing Authority upon request. The premises licence holder or designated premises supervisor is to provide the police with the contact details of members of staff (or other person(s)) who are trained and familiar with the operation of the equipment so that, at the expense of the premises licence holder, they are able to check that the equipment is operating properly and that they are able to provide copies of recorded data upon request and within no more than 12 hours from the time of the request. The premises licence holder or the Designated Premises Supervisor must notify the licensing office or the Police in the event of CCTV breakdown as soon as is reasonably practicable and in any event within 24 hours.
 2. Staff training shall take place on the Licensing Act and Licensing objectives upon commencement of employment and every six months thereafter, a written record of this training is to be maintained and made available to the police and any authorised officer of the Council for inspection on request.
 3. A personal licence holder must be contactable when the premise is open to the public.
 4. SIA registered door staff shall be employed at the premises, in accordance with a risk assessment to be carried out by the DPS. When employed, door staff will wear high visibility armbands.

5. Door staff employed at the premises must be SIA registered and a log must be maintained at the premises showing the full name, date of birth, contact telephone number and SIA badge number of the Door Security Staff on duty, the time when they started and ended their shift and the details of any incidents that take place to include incidents when a member of the public is refused entry to the premises. The log is to be made available to the police, to SIA inspectors and to Authorised Officers of the Licensing Authority on request.
6. Any Door security staff employed to use their best endeavours to prevent persons loitering outside the premises.
7. The licence holder and/or the designated premises supervisor or a person nominated by them shall be a member of and attend at the meetings of the Pub and Club watch scheme for the area.
8. No person in possession of a drink in a sealed or unsealed container shall be allowed to enter the premises except for the purposes of delivery or from moving from one part of the premises to another.
9. Customers are to be prevented from leaving the premises with glasses or open bottles. No drink shall be removed from the premises in an unsealed container save for consumption in any delineated area.
10. The premises should operate at a maximum capacity of 25 persons including staff members.
11. The DPS/ Licence holder must ensure members of staff are adequately trained with regard to First Aid.
12. There shall be maintained on the premises at all times an adequate and appropriate supply of first aid equipment and materials.
13. Regular safety checks shall be carried out by staff.
14. Management shall liaise with the Fire Authority as necessary to ensure compliance with all necessary fire regulations.
15. The premises shall maintain public liability insurance.
16. Clientele must not be admitted to the premises after 00.00 (midnight). After that time the service of alcohol will only take place with food deliveries off the premises.
17. Prominent clear and legible notices must be displayed at all exits requesting that customers respect the needs of local residents and to leave the premises and area quietly.
18. Music and associated other noise sources (e.g. DJs and amplified voices) shall not be generally audible inside noise sensitive property at any time.

The DPS or a member of staff is to carry out noise level checks of the surrounding outside area whenever entertainment is being provided taking action to reduce noise levels where there is a potential for nuisance to be caused.

19. All external doors and windows are to be kept closed when live entertainment or recorded music is in progress.
20. The exterior of the building shall be cleared of litter at regular intervals.
21. A Dispersal and Smoking Policy will be implemented and adhered to (see attached).
22. On occasions when the premises are used/hired to hold a party, At least one SIA registered security staff is to be employed at the premises for the duration of the function.
23. On such occasions, the sale of alcohol and the provision of regulated entertainment is to cease no later than 23.00hrs.
24. No refuse shall be disposed of or collected from the premises between the hours of 00.00 and 0700 where such disposal or collection is likely to cause disturbance to local residents.
25. The premises will operate a "Challenge 25" proof of age policy, and signage to this effect is to be prominently displayed within the premises. Persons who appear to be under the age of 25 must produce for thorough scrutiny by staff, proof of identity/age before being sold/supplied alcohol. Only a passport or photo-card driving licence or a proof of age card bearing the official 'PASS' accreditation hologram should be accepted as proof of age.
26. The premises is to maintain a refusals / incident book to record the details of incidents / descriptions of individuals whenever a member of staff has refused to sell alcohol to a person suspected of being under the age of 18 and record the circumstances of any incident. The book must be made available to the police / authorised officers of the Licensing Authority on request.
27. Staff training will include the Challenge 25 Policy and its operation. In particular, staff shall be trained to take such action as is necessary to prevent the sale of alcohol to persons over the age of 18 where those customers are engaged in the distribution of alcohol to persons under the age of 18. The training must be given to a new member of staff before they commence employment and all staff must receive refresher training every 6 months.
28. All alcohol must be displayed/stored behind the counter.
29. No person under the age of 18 shall be permitted to remain on the premises after 22.00 hours except when present with a responsible adult.

30. Greater Manchester Police and the applicant have agreed the following with regard to opening hours of the Premises

Agreed hours

- a. Supply of alcohol – For consumption On/Off the Premises.
Monday to Sunday 12noon until 01.00

From midnight, the sale would only be permitted for off-sales via delivery. Sale of alcohol for consumption on the premises would cease at midnight

- b. Provision of Late Night Refreshment (Indoors)
Monday to Sunday 23.00 until 01.30

- c. Opening Times.
Monday to Sunday 10.00 until 01.30

COUNCILLOR T HOLT
Chair

(Note: The meeting started at 1.06 pm and ended at 2.25 pm)