



<b>Classification</b>	<b>Item No.</b>
Open	

<b>Meeting:</b>	Licensing Hearings Sub-Committee
<b>Meeting date:</b>	19 May 2023
<b>Title of report:</b>	Application for a Premises Licence to be granted under the Licensing Act 2003 in respect of Nova Wine and Tapas, 3 and 3a Radcliffe New Road, Whitefield, M45 7QX
<b>Report by:</b>	Executive Director (Operations)
<b>Decision Type:</b>	Council
<b>Ward(s) to which report relates</b>	East

**Executive Summary:**

This report relates to an application for a Premises Licence to be granted under the Licensing Act 2003 in respect of Nova Wine and Tapas, 3 and 3a Radcliffe New Road, Whitefield, M45 7QX

**Recommendation**

**Options & recommended option**

- To grant the application in the terms requested
- To grant the application subject to conditions
- To amend or modify existing or proposed conditions
- To refuse the application

**Key considerations**

This is a Council Function that is delegated to the Licensing and Safety Panel by the Council's Constitution.

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**Community impact / Contribution to the Bury 2030 Strategy**

Not applicable

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**Equality Impact and considerations:**

A GM-wide Equality Impact Assessment has been undertaken and a copy is available on request.

*Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:*

*A public authority must, in the exercise of its functions, have due regard to the need to -*

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

*The public sector equality duty requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.*

*The Licensing Service have considered the Equality Act 2010 and due to each application being dealt with on its own merits there is no positive or negative on any of the protected characteristics*

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**Assessment of Risk:**

The following risks apply to the decision:

<b>Risk / opportunity</b>	<b>Mitigation</b>
Not applicable	

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**Consultation:**

Not applicable

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**Legal Implications:**

Under the legislation the Council is required to determine representations. The report is in accordance with the appropriate legislation.

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## Financial Implications:

There are no specific issues from the report other than potential costs/risks associated with legal appeals

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## Report Author and Contact Details:

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**Please include a glossary of terms, abbreviations and acronyms used in this report.**

Term	Meaning
DPS	Designated Premises Supervisor

## Background papers:

Application form  
Representation received  
Plan

### 1.0 BACKGROUND

- 1.1 The Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations are the relevant legislation.
- 1.2 The Panel will make a decision on the day of the hearing and the parties will be notified subsequently of the decision and the reasons for it by letter from the Licensing Office.

### 2.0 INTRODUCTION

- 2.1 The applicant for the licence is EGLK Limited, 3 Radcliffe New Road, Whitefield, M45 7QX and the proposed Designated Premises Supervisor (DPS), in respect of the above premises, is Fiden Berisha, 24 Saltney Avenue, Manchester, M20 1DG.
- 2.2 The applicant has complied with all the necessary procedural requirements laid down by the Act.
- 2.3 As part of the statutory process the Responsible Authorities and interested parties are entitled to make representations in relation to the grant of a licence. Where representations are made and not withdrawn Members are required to determine them.

2.4 Representations must be relevant to the licensing objectives defined within the Act. The objectives are:-

- the prevention of crime and disorder
- public safety
- prevention of public nuisance and
- protection of children from harm

### 3.0 THE APPLICATION

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

The operating schedule shows the following:

**a. Recorded music - Indoors**

Friday to Saturday                      23.00 to 01.00

**b. Provision of Late Night Refreshment**

Friday to Saturday                      23.00 to 01.00

**c. Supply of alcohol – For consumption On the Premises.**

Sunday to Thursday                      17.00 to 23.00

Friday to Saturday                      17.00 to 01.00

**d. Hours open to the Public**

Sunday to Thursday                      17.00 to 23:30

Friday to Saturday                      17.00 to 01.30

The conditions contained in the operating schedule submitted by the applicant are contained at Appendix 1.

### 4.0 REPRESENTATIONS FROM A RESPONSIBLE AUTHORITY

4.1 Greater Manchester Police have also submitted a representation in their capacity as a Responsible Authority. The representation is contained at Appendix 2. The Licensing Service are aware that discussions have taken place between the applicant's representative and Greater Manchester Police, and the applicant has agreed the amended wording.

### 5.0 REPRESENTATIONS FROM AN INTERESTED PARTY

5.1 One relevant representation, from an interested party has been made against this application. A summary of this is detailed below:-

- Anti-Social Behaviour
- Noise
- Residential areas
- Encourage people to stay out later into the evening.
- Two other venues in close proximity

5.2 The representation is attached at Appendix 3.

## **6.0 OBSERVATIONS**

6.1 After hearing the representations made and the evidence presented, Members are obliged to determine the application with a view to promoting the licensing objectives and having regard to the Authority's Licensing Policy and National Guidance.

## **7.0 THE SECRETARY OF STATES GUIDANCE TO THE LICENSING ACT 2003**

7.1 The Secretary of State's Guidance to the Licensing Act 2003 is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.

7.2 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The Guidance is therefore binding on all licensing authorities to that extent. However, the Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons.

7.3 Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

## **8.0 CONCLUSION**

8.1 A licensing authority must carry out its functions under this Act ("licensing functions") with a view to promoting the licensing objectives:

- the prevention of crime and disorder
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

8.2 In reaching the decision, regard must be had to relevant provisions of the national guidance and the Council's licensing policy statement.

8.3 The Sub-Committee must consider what steps are appropriate for the promotion of the licensing objectives.

8.4 In making its decision with regard to this variation hearing, the steps the Sub-Committee can take are:

- To grant the application in the terms requested
- To grant the application subject to conditions
- To amend or modify existing or proposed conditions

- To refuse the application

- 8.5 All licensing determinations should be considered on the individual merits of the application.
- 8.6 The Sub-Committee's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. Findings on any issues of fact should be on the balance of probability.
- 8.7 It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal.
- 8.8 The Sub-Committee is asked to determine what steps, as set out in 8.4 above, are appropriate for the promotion of the licensing objectives.

## **Crime and Disorder**

The premises shall install and maintain a comprehensive digital colour CCTV system. All public areas of the licensed premises, including all public entry and exit points. The CCTV cameras shall continually record whilst the premises are open to the public and recording shall be kept available and unedited for a minimum of 28 days with the date and time stamping. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public and must be able to produce / download / burn CCTV images upon request by a police officer or an authorised officer of the licensing authority. Any footage must be in a format so it can be played back on a standard personal computer or standard DVD player. Where the recording is on a removable medium (i.e. compact disc, flash card etc.), a secure storage system to store those recording mediums shall be provided.

An incident log (which may be electronically recorded) shall be kept at the premises for at least six months, and made available on request to the Police or an authorised officer of the licensing authority, which will record the following incidents including pertinent details:

- (a) all crimes reported to the venue, or by the venue to the Police
- (b) all ejections of patrons
- (c) any incidents of disorder
- (d) any faults in the CCTV system
- (e) any visit by a relevant authority or emergency service

The Designated Premises Supervisor shall ensure that a written notice of authority is kept at the premises for all staff who sell alcohol. The notice shall be made available for inspection upon request of the police or an authorised officer of the licensing authority and all staff selling alcohol must be in possession of formal identification to enable to verify their identity against the notice.

## **Public Safety**

The premises will have smoke detectors and fire extinguishers

## **Prevention of Public Nuisance**

Notices will be displayed requesting patrons to leave the premises quietly. the dps and staff, will at all times be vigilant, in terms of the monitoring and prevention of litter within the vicinity of the outlet.

## **Protection of Children from Harm**

All staff will be trained in challenge 25 and sign to say they understand their role. legal notices will be displayed to warn minors id checks are used at all times.

A record of all incidents will be kept on site for inspection. staff will under go refresher training at 6 monthly intervals

**From:** Peter Eccleston <[Peter.Eccleston@gmp.police.uk](mailto:Peter.Eccleston@gmp.police.uk)>  
**Sent:** Thursday, April 6, 2023 12:28 PM  
**To:** G V Dixon <[geoffdixon@manchesterlicensetraining.co.uk](mailto:geoffdixon@manchesterlicensetraining.co.uk)>  
**Subject:** FW: New premises licence application - Nova Wine and Tapas, 3 and 3a Radcliffe New Road, Whitefield, M45 7QX

Afternoon Geoff

With regards to the premises license application for Nova Wine and Tapas, as we have previously discussed, I have concerns with regards to the proposed conditions and as per previous discussions please can the below be consider.

### **PREVENTION OF CRIME AND DISORDER**

The addition of the following condition with regards to SIA registered door supervisors

1. The DPS/Licensee will conduct a dynamic risk assessment in relation key dates throughout the year such as the last Friday before Christmas day, New Year's Eve and Sundays of bank holidays and employ SIA registered door supervisors as required.

### **THE PROTECTION OF CHILDREN FROM HARM**

Amendment of the current proposed condition re "Challenge 25" to:

1. The premises will adopt a challenge 25 age verification policy. Any patrons appearing to be under the of 25 will be required to produce proof that they are aged 18 or over.

The only acceptable forms of ID will be

- Passport
- UK driving licence
- Any photographic ID bearing the holographic PASS logo

Any patrons unable to produce age verification on request will be refused service.

2. All staff will be trained in the "Challenge 25" scheme and sign to say they understand their role
3. Legal / "Challenge 25" notices will be displayed to warn minors that ID checks will be carried out.
4. No persons under 18 years of age will be allowed on the premises after 9pm unless accompanies with an adult who is responsible for the child's welfare.
5. The premises is to maintain a refusals 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. The book must be made available to the police/authorised officers of the Licensing Authority on request.

I am on leave next week but will be back in the office on Monday 17<sup>th</sup> April if you have any issues. If not and you and the PLH is happy, please can you confirm by way of a return email and copy in Bury Councils Licensing Dept at: [Licensing@bury.gov.uk](mailto:Licensing@bury.gov.uk)



To whom it may concern,

I was extremely troubled to discover this new venue has applied for a license to serve alcohol and play recorded music until 1am on Friday and Saturday.

There are already two licensed venues within 500 feet of Nova which jointly contribute to substantial antisocial behaviour in the area, both of which have licenses until 11pm. I live opposite the Cross Keys pub and there are loud, drunk crowds who gather in front of the pub for much of the evening; furthermore there is constant amplified music audible in my living room until 11pm on a Friday and Saturday night. Why would Nova be granted a significantly later license in a quiet residential area already saturated by the late night drinking?

My objection to the license for Nova Wine and Tapas is two fold. Firstly, it will contribute to an existing problem of antisocial behaviour and noise pollution which is spiralling out of control. Secondly, it will encourage this to continue until much later into the evening. The fact Nova's license is much later than the other two venues will inevitably encourage people who are already causing problems to linger in the area until early in the morning, as well as make it difficult to sleep during the summer for hundreds of residents within the vicinity of amplified music until 1am.

This is a quiet, densely populated residential area. I would suggest the existing levels of antisocial behaviour and noise pollution are inappropriate. To grant this license to Nova Wine and Tapas will amplify an existing problem, as well as extending it much later into the evening.

Could you please confirm receipt of this objection and that it has been received within the notice period? Thanks very much.