

Minutes of: LICENSING HEARING SUB COMMITTEE

Date of Meeting: 19th May 2023, 10.30am

Present: Councillor S Walmsley (in the Chair)
Councillors G Marsden and G McGill

Also in attendance: M. Bridge (Licensing Unit Manager)
M. Cunliffe (Democratic Services)
O. Osinuga (Legal Services)

Mr Dixon (Applicants Representative)
I Oldman- Bury Times (Press)

Public Attendance: The Hearing was held virtually and interested members of the public were provided with a link to access the hearing online via Microsoft Teams or could be telephoned into the meeting via audio only. No members of the public were in virtual attendance.

1 APOLOGIES FOR ABSENCE

Apologies for absence were submitted from B Thomson- Head of Public Protection. The applicant Mr Berisha and the Representor who did not wish to be contacted were not in attendance.

2 DECLARATIONS OF INTEREST

There were no declarations of interest made.

3 APPLICATION FOR A PREMISES LICENCE TO BE GRANTED UNDER THE LICENSING ACT 2003 IN RESPECT OF NOVA WINE AND TAPAS, 3 & 3A RADCLIFFE NEW ROAD, WHITEFIELD, M45 7QX

The Licensing Authority received 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.

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 Mr Fiden Berisha, 24 Saltney Avenue, Manchester, M20 1DG.

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

The Licensing Unit Manager presented the report and 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 Where representations are made and not withdrawn Members are required to determine them.

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

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

The operating schedule detailed the following:

- Recorded music - Indoors**
Friday to Saturday 23.00 to 01.00
- Provision of Late Night Refreshment**
Friday to Saturday 23.00 to 01.00
- Supply of alcohol – For consumption On the Premises.**
Sunday to Thursday 17.00 to 23.00
Friday to Saturday 17.00 to 01.00
- 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 were contained at Appendix 1 in the agenda packs.

Greater Manchester Police (GMP) had submitted a representation in their capacity as a Responsible Authority. The representation was contained at Appendix 2 in the agenda packs. The Licensing Service are aware that discussions had taken place between the applicant's representative and Greater Manchester Police, and the applicant had agreed the amended wording.

One relevant representation from an interested party had 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

The representation was attached at Appendix 3 in the agenda packs.

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.

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.

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.

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.

In making its decision with regard to this application 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

All licensing determinations should be considered on the individual merits of the application.

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.

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.

The Sub-Committee is asked to determine what steps, as set out above, are appropriate for the promotion of the licensing objectives.

Clarification was sought that the location of the premises was in the Pilkington Park ward and not Bury East as detailed on the front of the report attached to the agenda.

Mr Dixon provided the meeting with a brief summary that the application was for a restaurant use set over 2 floors as detailed in the building plans. The venue would not be a drinking establishment and the applicant had a number of years experience working as a restaurant manager within the hospitality trade.

The Licensing Unit Manager requested clarification with Mr Dixon that within the operating schedule in appendix 1 under Public Safety, the wording be amended to contain the maintenance and service of smoke detectors and fire extinguishers within the premises. The Licensing Unit Manager also clarified that under the Prevention of Public Nuisance, the display of notices requesting patrons to leave the premises quietly would still be included as GMP had not listed this in their conditions. Mr Dixon agreed to both of these conditions containing the extra information.

The Licensing Unit Manager also clarified that in appendix 2, all staff will be trained in the "Challenge 25" scheme and sign to say they understand their role. The operating schedule stated refresher training would take place every 6 months and GMP had also not included this on their conditions. Again, Mr Dixon agreed to this amended condition.

The Licensing Unit Manager also clarified to Members that Mr Dixon had requested to contact the representor directly to discuss the representations contained in Appendix 3 of the agenda packs. The representor declined this opportunity and Mr Dixon whilst understanding any concerns repeated the business was for a restaurant use only and was unsure if the representor was involved with a nearby business.

The Sub-Committee then duly retired to consider the application.

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 December 2022.

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

Delegated decision

All of the evidence was considered with care, and it was established that having understood the application and equally noting and understanding the representations and assurances made by the applicant's representative and in view of the agreement reached between the applicant and the Responsible Authority, the Sub-Committee found there were no causes for concern so far as the promotion of the licensing objectives were concerned.

It was therefore agreed unanimously, that the Sub-Committee **grant the application for a Premises Licence**, subject to the amended and additional wording of the following conditions which were accepted by the applicant.

Operating Schedule

The Prevention of 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.

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.

Public Safety

The premises will have smoke detectors and fire extinguishers which will be maintained and serviced.

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 / "Challenge 25" notices will be displayed to warn minors that ID checks will be carried out.

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

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.

No persons under 18 years of age will be allowed on the premises after 9pm unless accompanied with an adult who is responsible for the child's welfare.

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.

COUNCILLOR S WALMSLEY
Chair

(Note: The meeting started at 10.30am and ended at 10.57am)