

Minutes of: LICENSING HEARING SUB COMMITTEE

Date of Meeting: 29th January 2024

Present: Councillor G McGill (in the Chair)
Councillors G Marsden and M Walsh

M. Bridge (Licensing Unit Manager)
M. Cunliffe (Democratic Services)
O. Osinuga (Legal Services)

Also in attendance: Mr S Monks (Applicant)
Miss M Monks (Applicant)

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 press or public were in virtual attendance.

1 APOLOGIES FOR ABSENCE

Apologies for absence were submitted from B Thomson- Head of Public Protection. No representors were in attendance.

2 DECLARATIONS OF INTEREST

There were no declarations of interest made.

3 MINUTES OF THE LAST MEETING

The minutes of the last Licensing Hearing Sub Committee meeting held at 10.30am on the 12th January 2024 were attached to the agenda.

Resolved:- That the minutes of the Licensing Hearing Sub Committee held at 10.30am on the 12th January 2024 be approved as a correct record.

4 APPLICATION FOR A PREMISES LICENCE TO BE GRANTED UNDER THE LICENSING ACT 2003 IN RESPECT OF THE HIDEOUT GASTRO BAR LIMITED, 2 SHERBOURNE STREET, PRESTWICH, M25 3HB

The Licensing Authority received an application for a Premises Licence to be granted under the Licensing Act 2003 in respect of Hideout Gastro Bar Limited, 2 Sherbourne Street, Prestwich, M25 3HB.

The applicant for the licence is the Hideout Gastro Bar Limited, 2 Sherbourne Street, Prestwich, M25 3BB and the proposed Designated Premises Supervisor (DPS), in respect of the above premises, is Mr Gregory Ryan Motler, 61 Pall Mall, 18 Church Street, Manchester, M4 1PN

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 Where representations are made and not withdrawn Members are required to determine them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 which was attached at Appendix 1 in the agenda packs.

Since the submission of the application for a premises licence by the applicant, the hours of operation have been amended due to the applicant being contacted by Greater Manchester Police. Mediation took place and the applicant had agreed to the following hours:

Opening Times:

Monday to Thursday – 11:00 till 23:30

Friday and Saturday – 11:00 till 00:30

Sunday – 12:00 till 23:30

Supply of Alcohol (on the premises only):

Monday to Thursday – 11:00 till 23:00

Friday and Saturday – 11:00 till 00:00

Sunday – 12:00 till 23:00

The conditions contained in the operating schedule submitted by the applicant were contained at Appendix 2 in the agenda packs.

Two relevant representations from an interested parties had been made against this application. A summary of this is detailed below:-

- Fighting / Anti-Social Behaviour
- Noise/Loud Music
- Taxis
- Increase in licensed premises
- Residential area
- Patrons leaving
- Other venues in close proximity

The part redacted representations were 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 was asked to determine what steps, as set out above, are appropriate for the promotion of the licensing objectives.

Mr Monks addressed the sub committee and told Members they were looking to put guidance in place to control noise levels and door staff could be employed at busy

times on a Friday and Saturday to help control protocols. A CCTV system would cover the inside of the premises and externally it would monitor both the rear and side of the location. Sound proofing would also be installed on the wall that adjoined the neighbouring property which was a barber's shop although that premises also had a flat.

Miss Monks addressed the sub committee and added that notices would be placed in the bar advising customers who wished to exit the premises for a cigarette that a smoking and vaping area was located on Bury New Road. She informed Members they were local residents of Prestwich and wanted to sustain a good community in the area. Spots checks could be undertaken to make sure protocols were adhered to and noise levels were under control. Initial enquires had been undertaken with the police in relation to having a direct panic alarm installed at the premises.

Mr Monks advised that the customer base aimed to be people in their late 20's upwards and would have to meet a dress code in place with no drink offers planned and the challenge 25 scheme implemented. In relation to the objections received he commented that there were a number of similar bars in the area surrounded by residential properties and these even had an outdoor space which would create more noise.

Miss Monks confirmed that late night opening would only be required for special one-off events and a Temporary Event Notice could be applied for occasions such as Parklife, Prestwich Pride and New Years Eve if the business chose to operate then. In relation to the noise objections received, she added that vehicles such as taxis would not use the side street and there were parking bays on the main road to accommodate them. Miss Monks clarified the commercial waste collection times from the premises and the venue would be considerate when managing glass waste to reduce excessive sound levels from the transfer into bottle bins.

The Licensing Unit Manager questioned that door staff were not included as a condition in the operating schedule and Mr Monks stated that they would be happy to implement that condition at peak weekend times if required.

The Licensing Unit Manager enquired about employing only one door staff supervisor and the applicants explained that they would monitor this if required and employ another person on the door only if needed. As a new business, additional costs would need to be considered if door staff and panic alarms were needed.

The Licensing Unit Manager asked if a free phone taxi telephone would be available and Mr Monks would be happy to implement this if required by conditions. Miss Monks commented that there was a taxi office and rank across the road to the venue and it was felt most people would use their mobile phone or app-based software to order a taxi.

The Licensing Unit Manager clarified that drinks would not be taken outside to the smoking area.

Councillor Walsh asked where the glass bins would be located and Mr Monks advised that there was a back yard area with high walls and every care would be taken to minimise noise levels.

The Licensing Unit Manager commented on the CCTV listed in the operating schedule and Mr Monks advised that around 8 cameras would be in operation both internally and externally. The applicants were happy to work alongside the council, police and local residents to prevent crime and minimise any noise. They are a family run business and wanted to be part of the community and be a venue that people feel safe at.

The Licensing Unit Manager reminded Members that there is a review process that can be triggered if the licensing objectives are not met to address any concerns from different organisations and the general public.

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 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 in the terms requested**, subject to the following conditions:-

Operating Schedule

The Prevention of Crime & Disorder

- The premises will operate an effective CCTV system which will be maintained in good working order at all times the premises is open for business. The type of

system (YI 1080p) has motion detection and two cameras, which the positioning of is to be agreed in liaison with the police.

- The location of cameras will be recorded on the plan attached to the licence. The recording medium (e.g. discs / 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 is to provide the police with the contact details of at least two 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 must notify the licensing office or the Police in the event of CCTV breakdown or malfunction as soon as is reasonably practicable and in any event within 24hrs.
- Staff training shall take place on the Licensing Act and Licensing objectives every six months and a written record of this training to be maintained and made available to the police and any authorised officer of the Council for inspection on request.

Public Safety

- The bar/restaurant will be fitted carbon monoxide and smoke detectors. there are no steps or other hazards. signposting of possible hazards
- Customers will be prevented from leaving the premises with glasses or open bottles. Empty bottles must be placed into locked bins so as to prevent them from being used as weapons.
- Only plastic glasses / plastic bottles/ toughened glass will be used in the outside areas.

The Prevention of Public nuisance

- Prominent, clear and legible notices will be displayed at all exits requesting that customers respect the needs of local residents and to leave the premises and area quietly.
- We will ensure that 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 will 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.

- All external doors and windows will be kept closed when music is being played
- The outside area will not to be used for licensable activities or for the consumption of alcohol after 22.00 hours daily.

Protection of Children from Harm

- 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 will be asked to 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 will be accepted as proof of age.
- The premises will 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 will be made available to the police / authorised officers of the Licensing Authority on request.

COUNCILLOR G MCGILL
Chair

(Note: The meeting started at 10.00am and ended at 10.55am)

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