

LICENSING ACT 2003:
Application for a Premises Licence to be granted at 32 Upper Hibbert Lane,
Marple, SK6 7HX

Report of the Corporate Director for Place Management & Regeneration

1. PURPOSE OF REPORT

- 1.1. For Members to consider an application from SPS Electrical Ltd for a premises licence to be granted under the Licensing Act 2003 at 32 Upper Hibbert Lane, Marple, SK6 7HX.

2. DETAILS

- 2.1. Applicant: SPS Electrical Ltd
Address: 32 Upper Hibbert Lane, Marple, SK6 7HX
Designated Premises Supervisor: Andrew O'Shea
Name of Premises: The Hole in the Wall
Address of Premises: 32 Upper Hibbert Lane, Marple, SK6 7HX.
Situation: A location plan is attached.

3. BACKGROUND

- 3.1. On 13th August 2020, SPS Electrical Ltd made an application for a premises licence to be granted at 32 Upper Hibbert Lane, Marple, SK6 7HX. The applicants have applied for:
- The supply of alcohol off the premises Monday to Saturday 11:00 – 23:00 hours and Sunday 12:00 to 22:00 hours.
- 3.2. The application has proposed that the following conditions appear, in addition to the mandatory conditions, on the premises licence;
- All staff will undertake training in relation to the sale of alcohol, particularly regarding drunkenness and underage persons. Records will be kept of training and refresher training.
 - An alarm system is installed throughout which covers all doors to the building and all internal areas are also covered by presence detectors. The system is linked to the owner's phone which will issue a notification in the event of an alert.
 - All staff and private areas are kept locked whilst the premises are open to the public.
 - There is a lockable shutter installed to the front to protect against theft.
 - There will be means of two-way communication to report incidents between the premises and the Police.
 - CCTV equipment will be installed to cover the inside and outside of the premises which will be capable of recording and storing images of HD

quality for 28 days, with means to export externally. Notices will be in place and be clearly visible to the public.

- A full risk assessment considering public safety will be carried out at the premises to identify potential hazards posed to staff or customers. This risk assessment will be reviewed formally every 12 months and updated as needed.
- All customers will be asked to leave quietly. Clear and legible notices will be prominently displayed to remind customers to leave quietly and have regard to residents.
- All rubbish bins and glass refuse will be kept to the rear of the premises within a fenced area.
- Customers will be encouraged to purchase "Growler" containers to reduce waste generated.
- Any movement of empty kegs will not be carried out between the hours of 11pm and 7am.
- Notices will be displayed advising customers not to park in residents driveways or block the public highway.
- Challenge 25 policy will be in place.
- A register of refused sales shall be kept and maintained on the premises.
- Admission of children will only be permitted if they are accompanied by an adult

3.3. The application was advertised on the boundary of the premises for 28 days from the 13th August 2020 and a copy of the notice was published in the Stockport Express on the 26th August 2020.

3.4. There have been two relevant representations to this application, relating to the Public Safety and Prevention of Public Nuisance licensing objectives. The representations are from local residents and are concerned with the safety of customers and residents with regards to the positioning of the premises, and also noise emanating from the premises.

4. GUIDELINES

4.1 Section 16 of the Licensing Act 2003 states that the following persons may apply for a premises licence –

- (a) a person who carries on, or proposes to carry on, a business which involves the use of the premises for the licensable activities to which the application relates,
- (b) a person who makes the application pursuant to—
 - (i) any statutory function discharged by that person which relates to those licensable activities, or
 - (ii) any function discharged by that person by virtue of Her Majesty's prerogative,
- (c) a recognised club,
- (d) a charity,
- (e) the proprietor of an educational institution,
- (f) a health service body,
- (g) a person who is registered under Part 2 of the Care Standards Act 2000 (c. 14) in respect of an independent hospital in Wales,

- (ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England,
- (h) the chief officer of police of a police force in England and Wales,
- (i) a person of such other description as may be prescribed.

4.2 Section 18 (3) of the act states that, where relevant representations are made, the authority must, having regard to the representations made, take such steps as it considers necessary for the promotion of the licensing objectives. The steps are:

- (a) to grant the licence subject to
 - (i) such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and
 - (ii) any condition which must under section 19, 20 or 21 be included in the licence;
- (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
- (c) to refuse to specify a person in the licence as the premises supervisor;
- (d) to reject the application.

4.3 The Statutory Guidance issued under section 182 of the Licensing Act 2003 was amended to reflect changes made to the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2012 and was most recently amended in April 2018. This guidance gives the following advice on the issues raised in the representation.

4.3.1. In relation to the prevention of public nuisance licensing objective, paragraph 2015 states that the 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

4.3.2. Paragraph 2.16 states that public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

4.3.3. Paragraph 2.17 states that conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in

relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

- 4.3.4. Paragraph 2.18 states that as with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 4.3.5. Paragraph 2.19 states that where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 4.3.6. Paragraph 2.20 states that measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 4.3.7. Paragraph 2.21 states that beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.
- 4.3.8. In relation to the Public Safety licensing objective, paragraph 2.7 states that Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this

would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

4.3.9. Paragraph 2.8 states that a number of matters should be considered in relation to public safety. These may include:

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
- Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).

4.3.10. Paragraph 2.9 states that the measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

4.3.11. Paragraph 2.10 states that Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

4.4. Paragraph 10.10 states that The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

5 RECOMMENDATION

- 5.1. The Committee is asked to consider the application for a Premises Licence to be granted at 32 Upper Hibbert Lane, Marple, SK6 7HX.

BACKGROUND PAPERS

Licensing Act 2003

Statutory Guidance to the Licensing Act 2003, as revised, April 2018.

Stockport's Licensing Policy, 2016-2021

Anyone wishing to inspect the above background papers or requiring further information should contact Sarah Tooth on telephone number 0161 474 4176 or alternatively email on sarah.tooth@stockport.gov.uk.