

LICENSING ACT 2003:
Application for a Premises Licence to be granted at 95-97 Stockport Road,
Marple, SK6 6AA

Report of the Corporate Director for Place Management & Regeneration

1. PURPOSE OF REPORT

- 1.1. For Members to consider an application from Red n Black Ltd for a premises licence to be granted under the Licensing Act 2003 at 95-97 Stockport Road, Marple, SK6 6AA.

2. DETAILS

- 2.1. Applicant: Red n Black Ltd
Address: 196 Buxton Road, Whaley Bridge, SK23 7JX
Designated Premises Supervisor: Andrew O'Shea
Name of Premises: Ian Watson
Address of Premises: 95-97 Stockport Road, Marple, SK6 6AA.
Situation: A location plan is attached.

3. BACKGROUND

- 3.1. On 7th October 2020, Red n Black Ltd made an application for a premises licence to be granted at 95-97 Stockport Road, Marple, SK6 6AA. The applicant has applied for:
- The supply of alcohol on and off the premises Monday to Sunday 09:00 to 00:00 hours.
 - The provision of live music (indoors) Friday to Saturday 20:00 – 00:00 hours.
 - The provision of recorded music (indoors and outdoors) Monday to Sunday 09:00 – 00:00 hours.
 - The provision of late night refreshments (indoors) Friday to Saturday 23:00 – 00:00 hours.
- 3.2. The application has proposed that the following conditions appear, in addition to the mandatory conditions, on the premises licence;
- CCTV fitted inside and outside. Images retained for 1 month.
 - Door staff when required.
 - Beer garden at the front to be closed at a reasonable time.
 - Signs on display to respect neighbours.
- 3.3. The applicant has also agreed the following conditions with the Environmental Health department, in relation to the prevention of public nuisance licensing objective:

- Any live or recorded music emanating from the premises shall not be clearly audible at the boundary of the nearest residential property.
 - All external windows and doors shall be closed whilst entertainment is taking place, except for normal access and egress.
 - There shall be no disposal of bottles or refuse outside the premises between the hours of 21.00 and 09.00.
- 3.4. The Planning Department have advised that condition 5 of the planning permission, restricts the opening of the premises for trading purposes and operation for the purposes of food preparation to between 08:00 and midnight, 7-days a week. The applicant amended the terminal hour of licensable activities to midnight, to reflect this.
- 3.5. The application was advertised on the boundary of the premises for 28 days from the 7th October 2020 and a copy of the notice was published in the Marple Review. The Marple Review stated that this was published on the 19th October 2020.
- 3.6. There has been one relevant representation to this application, relating to the Prevention of Public Nuisance licensing objective. The representation is from a local resident and is concerned with the potential of litter and 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. 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 95-97 Stockport Road, Marple, SK6 6AA.

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.