

LICENSING ACT 2003:

Application for a Premises Licence to be granted at 33 Kendal Drive, Gatley, SK8

Report of the Corporate Director for Place Management & Regeneration

1. PURPOSE OF REPORT

- 1.1. For Members to consider an application from Nicole Bradley and Kias Jajeh for a premises licence to be granted under the Licensing Act 2003 at 33 Kendal Drive, Gatley, SK8 4QJ

2. DETAILS

- 2.1. Applicant: Nicole Bradley & Kias Jajeh
Address: 33 Kendal Drive, Gatley, SK8 4QJ.
Designated Premises Supervisor: Abigail Amelia Lane
Name of Premises: Manchester Cocktail Company
Address of Premises: 33 Kendal Drive, Gatley, SK8 4QJ.
Situation: A location plan is attached.

3. BACKGROUND

- 3.1. On 26th October 2020, Nicole Bradley & Kias Jajeh made an application for a premises licence to be granted at 33 Kendal Drive, Gatley, SK8 4QJ. The applicants have applied for:
- The supply of alcohol off the premises Tuesday to Thursday 16:00 to 01:00 hours and Friday to Sunday 12:00 to 01:00 hours.
- 3.2. The application has proposed that the following conditions appear, in addition to the mandatory conditions, on the premises licence;
- Alcohol supplied under the licence will be via orders taken through the Company's website / third party delivery websites and dispatched from these premises direct to the customer. The premises will never be open to the general public for sales of alcohol by retail.
 - Deliveries of alcohol will not be made if there is no adult present to accept the delivery. Challenge 25- the Premises Licence Holder will require all delivery operatives to request proof of age at the point of delivery of alcohol products if the individual receiving the product appears under 25.
 - Acceptable age verification documents will only be Proof of Age cards with the 'PASS' hologram, UK Photo, Driving Licence, Military ID, Passport or European Union Member state ID card with photo.
 - Warnings will be displayed on the Company's website to remind customers that any purchase of alcohol must be made by someone over 18.
 - Health and Safety Risk assessments will be undertaken and staff shall be trained therein.
 - No members of the general public to be allowed on site at any time, this is a delivery only service.

- There will be no public access to the site for sales of alcohol by retail and as such it is not anticipated any nuisance will arise.
- No customers allowed on site as delivery only service.
- Warnings will be displayed on the Company website to remind purchasers that any purchase of alcohol must be made by a person over 18.
- No children to be on site at any time during business working hours.

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:

1. No customers permitted on site.
2. No alcohol deliveries to the site between 9pm - 7am.
3. Alcohol deliveries from the site, shall take place on the driveway. The following applies:
 - a. only one vehicle at a time shall be loaded.
 - b. vehicle engines shall be switched off.
 - c. no car radio/ telephone calls on driveway during loading operation.

3.4. The application was advertised on the boundary of the premises for 28 days from the 26th October 2020 and a copy of the notice was published online with the Stockport Mail on the 27th October 2020.

3.5. There have been 16 relevant representations to this application, relating to the Prevention of Public Nuisance licensing objective. The representations are from local residents and are concerned with potential noise and light 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.
- 4.4. 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 33 Kendal Drive, Gatley, SK8 4QJ.

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@stockport.gov.uk.