

LICENSING ACT 2003:
Application for a Premises Licence to be granted at 103 Bloom Street, Edgeley, SK3 9LQ

Report of the Corporate Director for Place Management & Regeneration

1. PURPOSE OF REPORT

- 1.1. For Members to consider an application from Monika Pyka for a premises licence to be granted under the Licensing Act 2003 at 103 Bloom Street, Edgeley, SK3 9LQ.

2. DETAILS

- 2.1. Applicant: Monika Pyka
Address: 25a Castle Street, Edgeley, SK3 9AT
Designated Premises Supervisor: Monika Pyka
Name of Premises: TBC
Address of Premises: 103 Bloom Street, Edgeley, SK3 9LQ
Situation: A location plan is attached.

3. BACKGROUND

- 3.1. On 8th December 2020, Monika Pyka made an application for a premises licence to be granted at 103 Bloom Street, Edgeley, SK3 9LQ. The applicant has applied for:
- The supply of alcohol off the premises Monday to Sunday 07:00 to 23:00 hours.
- 3.2. The application was restarted as the original application dated September 2020 was not advertised in line with the requirements under the Licensing Act 2003.
- 3.3. Following the applicant's discussions with the Police, the applicant agreed to remove the proposed none-standard timings originally applied for in section J of the application form. Further to this, the applicant requested to amend the proposed terminal hour for the supply of alcohol off the premises from midnight 7 days a week, to 23:00 hours, 7 days a week.
- 3.4. The application has proposed that the following conditions appear, in addition to the mandatory conditions, on the premises licence;
- Emergency exits alarmed when premises are open to the public.
 - Any staff or private areas and cellars kept locked and secured whilst the premises are open to the public.
 - CCTV will be installed inside and outside the premises. The cameras will cover all internal areas accessible to the public and areas immediately outside the premises. The date and time settings on the system will be correct. The recordings will be in real time and on hard drive with the availability to copy disks for other agencies such as the Police. For

analogue systems, tapes will be changed daily and used no more than 12 times. Recordings will be kept for a minimum of 31 days.

- Staff will be trained in the maintenance and operation of such systems, with a record kept of the date and name of person trained. Records will be made available for inspection by the Police or Licensing Authority. A trained member of staff will be on duty to operate the system whenever the premises are open.
- Security systems will be integrated so that the alarm, CCTV and lighting work together in an efficient manner. The alarm will be linked to a system that will notify the Police if it is activated.
- Premises will be searched inside and out of suspect packages before, during and after opening hours. Staff will be trained to remain vigilant during opening hours and report any suspicious activity to the Police.
- Daily staff briefing and debriefing will take place, with records kept in the main office.
- Challenge 25 policy in place.
- The admittance of children will be only be permitted if they are accompanied by an adult.
- Proof of age signs will be on display at the point of sale.
- Posters displayed at the premises stating it as offence to buy alcohol for an underage person.
- A refusals book (or refusal button on EPOS - electronic point of sale) will be kept on the premises and ensure it is completed whenever a sale is refused to a person who cannot prove they are over the age of 18. The book will contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale and the reason the sale was refused. The book will be made available to the Police and Council officers on request. The book should be reviewed on a regular basis to see if any patterns emerge.
- Staff training in the age related sections of the Licensing Act 2003 will be provided to all till staff. This includes the ability to competently check customer's identification where necessary. A record will be kept of the date and name of person trained.

3.5. The application was advertised on the boundary of the premises for 28 days from the 8th December 2020 and a copy of the notice was published online with the Stockport Mail from the 8th December 2020.

3.6. There have been 9 relevant representations to this application, relating to the Prevention of Public Nuisance and the Prevention of Crime & Disorder licensing objectives. The representations are from local residents and Councillors. The representations are concerned with potential noise emanating from the premises and also the potential risk of further anti-social behaviour in the vicinity of 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 Crime & Disorder licensing objective, paragraph 2.1 states that Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

4.3.2 Paragraph 2.2 states that in the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug

dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

4.3.3 Paragraph 2.3 states that Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

4.3.4 Paragraph 2.5 states that Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

4.3.5. 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.

4.3.6. 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.

4.3.7. 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.

- 4.3.8. 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.
- 4.3.9. 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.
- 4.3.10. 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.
- 4.3.11. 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 103 Bloom Street, Edgeley, SK3 9LQ.

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.