

LICENSING ACT 2003:
Application for a Premises Licence to be granted at 15 Lower Hillgate, Stockport, SK1 1JQ

Report of the Corporate Director for Place Management & Regeneration

1. PURPOSE OF REPORT

- 1.1. For Members to consider an application from Mr Samuel Buckley for a premises licence to be granted under the Licensing Act 2003 at 15 Lower Hillgate, Stockport, SK1 1JQ.

2. DETAILS

- 2.1. Applicant: Samuel Buckley
Address: (personal data and so not disclosed within the report)
Designated Premises Supervisor: Samuel Buckley
Name of Premises: TBC
Address of Premises: 15 Lower Hillgate Stockport SK1 1JQ
Situation: A location plan is attached at Appendix B

3. BACKGROUND

- 3.1. On 6 July 2021 Samuel Buckley made an application for a premises licence to be granted at 15 Lower Hillgate Stockport. The application applied for the following activities:

Days of the week	Hours applied for re the playing of recorded music Further details – music to be played as background in the retail area DJs on weekend evening (Fri/ Saturday)	Hours applied for re the sale of alcohol for both on and off the premises	Hours applied for regarding the provision of late night refreshment *	Proposed opening hours (as per application)
Monday	0900-1900	N/A	N/A	N/A
Tuesday	0900-1900	N/ A	N/A	N/A
Wednesday	0900-1900	0900-0200	2300-0200	0900-1900
Thursday	0900-0000	0900-0200	2300-0200	0900-1900
Friday	0900-0100	0900-0200	2300-0200	0900-0200

Saturday	0900-0100	0900-0200	2300-0200	0900-0200
Sunday	0900-1900	0900-0200	2300-0200	0900-1900

A copy of the application including the proposed plan is attached at **Appendix A** personal data has been redacted.

- 3.2. In addition to the mandatory licence conditions the applicant has proposed a number of further conditions be attached to the premises licence. These are contained within the Operating Schedule and attached within **Appendix A**. The proposed conditions are detailed in respect of each of the 4 licensing objectives.
- 3.3. The application was advertised on the boundary of the premises for 28 days At the time of drafting the report the licensing team had not been provided with a copy of the newspaper advert, information regarding the newspaper advert will be made available at the Sub Committee meeting.
- 3.4. Initial representations included a petition, a separate representation from a local resident and a representation from environmental health. The licensing team wrote to all identifiable persons/addresses on the petition and asked the signatories to validate their agreement to the petition. Responses were received from 3 persons validating their agreement with the information contained on the petition.
- 3.5. In accordance with legal requirements the applicant was provided with copies of the representations. On the 5 August Mr Buckley requested that the following information being forwarded to all parties who had made representations

Hi Jeanette,

Please find attached our letter of compromise regarding the licence application for 15 Lower Hillgate, Yellowhammer.

To Whom it may concern,

In regards to our licence application I have taken the representations into account. I realise there is a worry in the local community that we will add to the anti social behaviour and noise pollution that seems to be growing with the addition of more night time drinking establishments.

It is truly not our intention to create more disturbance and although we will have an evening each week that we offer wine by the glass this will be very low key and will finish at the latest at midnight.

We only intend to open one night a week (planned to be Fridays) and we will offer small plates of food and wine by the glass. I think I have perhaps applied for too many hours and I am happy to change our application from 2am in the weekends to 12am. Also I am happy to change to 11pm weekdays although we will very rarely use this. Along with this I would take away the intention for DJ's to play.

We are excited to open a neighbourhood bakery, the night time offer is an addition that we hope will bring a much needed offer to the local residents. It is our intention to work closely with the community and to ensure that any offer we bring to the local area is in keeping with the well being of that community.

Yours sincerely Samuel Buckley

- 3.6 Mr Buckley's proposal was forwarded to all those who had made representations, as a result of which two of the parties from the petition and the local resident who had submitted a stand-alone representation withdraw their representations. This meant that one signatory from the petition (a local resident) and the environmental health representation both remained as valid representations. These representations are attached at **Appendix C1** in respect of environmental health and **Appendix D1** in respect of the local resident. In respect of Appendix D1 this was originally a two page document with the petitioners detailed on page 2, however as only three of the petitioner's confirmed their agreement to the petition and two of these subsequently withdrawn their concerns the second page of the petition has not been included and the petition now is the representation of a single local resident
- 3.7 On 9 August the local resident submitted a response to Mr Buckleys proposal this is attached at **Appendix D2**. Similarly the Environmental health response was received on 10 August and is attached at **Appendix C2**
- 3.8 On 11 August Mr Buckley was advised of the responses received and on the 22 August submitted two further emails to the licensing officer

The first email received at 11.48 hours stated the following

Hi Jenette,

I am writing with another offer in regards to our license for 15 Lower Hillgate Yellowhammer.

We would be willing to lower our entertainment licence hours to 11pm with the hope that this will be satisfactory to both EHO and local residents.

We would still keep our alcohol license until 12.00 but we are happy to stop any entertainment at 11pm.

I would be very grateful if I could leave this with you to pass on to those concerned.

*Thanks Again
Samuel Buckley*

The second email received at 12.33 hours stated the following and included the table below as an attachment

Jenette

Apologies for my getting back to you.

I am without computer or phone right now so it is very difficult to email.

I have set out new opening times. Of course as I said we only intend to open on a Friday night but I think these hours are reasonable should we wish to extend to two nights opening or hold a special event.

Let me know what you think - Hopefully it all makes a little more sense now.

All the best

Sam

Days of the week	Hours applied for re the playing of recorded music Further details – music to be played as background in the retail area.	Hours applied for re the sale of alcohol for both on and off the premises	Hours applied for regarding the provision of late night refreshment *	Proposed opening hours (as per application)
Monday	N/A	N/A	N/A	N/A
Tuesday	0900-1900	0900-1900 (NOT PERMITTED)	1800-1900 (NOT PERMITTED)	0900-1900
Wednesday	0900-1900	0900-1900	1800-1900	0900-1900
Thursday	0900-2300	0900-2300	1800-2300	0900-2300
Friday	0900-2300	0900-0000	1800-2300	0900-0000
Saturday	0900-2300	0900-0000	1800-2300	0900-0000
Sunday	0900-2000	0900-2100	1800-2000	0900-2100

3.9 The above table represents a general reduction in late night trading, however please note the proposed hours for the sale of alcohol and late night refreshment

on a Tuesday should be ignored as the original application indicated no sale of alcohol or late night refreshment on a Tuesday, as such these cannot be added part way through the application process. In addition late night refreshment is only applicable from 2300 hours and so no late night refreshment permissions are required for the amended hours as indicated above. The proposed opening hours are for information only and not part of the licensed activities.

Mr Buckley requested that amended proposals be forwarded to the persons who have current representations, this had not been done at the time of drafting this report as the report had to be finalised by 23 August and the proposals were only received on 22 August. However officers will forward the proposals following finalisation of this report

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 2.15 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 11pm and 8am. 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 2.21 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. OPTIONS

Following the consideration of the application the subcommittee has the following options

- To grant the application as applied for
- To grant the application subject to any conditions it considers appropriate for the promotion of the licensing objectives
- To grant the licence but exclude from the scope of the licence any of the licensable activities to which the application relates – based on the failure to promote the licensing objectives
- To grant the licence but amend the hours of any licensable activities to which the application relates – based on the failure to promote the licensing objectives
- To refuse to specify the person named as the designated premises supervisor
- To reject the application

6. RECOMMENDATION

- 6.1 The Committee is asked to determine the application for a Premises Licence by Mr Samuel Buckley in respect of 15 Lower Hillgate Stockport SK1 1JQ.

6.2 Full reasons should be given for the decision reached to inform the formal decision notice which must be sent to all parties following the meeting.

BACKGROUND PAPERS

Licensing Act 2003

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

Stockport's Licensing Policy, 2021 - 2026

Anyone wishing to inspect the above background papers or requiring further information should contact sarah.tooth@stockport.gov.uk.