

LICENSING ACT 2003:
Application to vary the Premises Licence at Da Shop, 15-19 Worcester Road,
Cheadle Hulme, Cheadle, Stockport, SK8 5NW

Report of the Corporate Director for Place Management & Regeneration

1. PURPOSE OF REPORT

- 1.1. For Members to consider an application from Mr Qaiser Mahmood to vary the premises licence for Da Shop, 15-19 Worcester Road, Cheadle Hulme, Stockport, SK8 5NW.

2. DETAILS

- 2.1. Applicant: Qaiser Mahmood
Designated Premises Supervisor: Qaiser Mahmood
Name of Premises: Da Shop
Address of Premises: 15-19 Worcester Road, Cheadle Hulme, Cheadle, SK8 5NW
Situation: A location plan is attached at **Appendix D**

3. BACKGROUND

On the 17th March 2023, Qaiser Mahmood made an application to vary the Premises Licence, The proposed variation is to:

- Increase the hours for the sale of alcohol off the premises to 00:00 -23:59 effectively turning into a 24hr operation licensable activities Monday to Sunday.
- Increase the hours of late night refreshments (outside) from 2300 -0500
- Add appropriate and proportionate conditions to Annexe 2 of the Licence

The proposed conditions are outlined in the operating schedule within the application form (section M).

The applicant also proposes that the hours the premises is open to the public be 00:00 – 23:59. Opening Hours is not a licensable activity.

- 3.1. A copy of the application to vary the premises licence is attached at **Appendix A**. this includes the requested variation.
- 3.2. A copy of the current premises licence including the existing hours of licensable activities and conditions attached to the licence is attached at **Appendix B**
- 3.3. The application was advertised on the boundary of the premises for 28 days following receipt of the application and a copy of the notice was published in the Stockport Express on the 22nd March 2023.

3.4. Two representations have been received. The representations are attached at **Appendix C1 and C2**. The representations focus on the licensing objectives of the prevention of public nuisance and the prevention of crime and disorder.

3.5. Attached at **Appendix D** is a copy of a locality plan.

4. GUIDELINES

- 4.1. Section 34 of the Licensing Act 2003 states that the holder of a premises licence may apply for a variation of that licence. Section 35(3) of the Act states that, having regard to the representations made, the Authority may take such steps as it considers necessary to promote the licensing objectives. The steps are:
- a) to modify the conditions of the licence by altering or omitting them or by adding new conditions
 - b) to reject the whole or part of the application
- and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.
- 4.2. 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.
- 4.2.1. 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.
- 4.2.2 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.
- 4.2.3. 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.

4.2.4. 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.

4.2.5. 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.

4.2.6. 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

4.2.7. 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 antisocial 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.

4.2.8 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 OPTIONS

Following the consideration of the application the sub committee has the following options

- To grant the variation application as applied for
- To grant the variation application subject to any additional conditions it considers appropriate for the promotion of the licensing objectives
- To grant the variation application in part but amend the hours of any licensable activities to which the application relates – based on the failure to promote the licensing objectives
- To refuse the variation application

6 RECOMMENDATION

6.1 The Committee is asked to determine the application to vary the Premises Licence in respect of Da Shop, 15-19 Worcester Rd, Cheadle Hume, Stockport, SK8 5NW

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, December 2022.

Stockport Council's Licensing Policy, 2021-2026

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