

LICENSING ACT 2003:
Application for a Premises Licence to be granted at Traders, 111 - 115 Stockport Road, Marple, SK6 6AF.

Report of the Corporate Director for Place Management & Regeneration

1. PURPOSE OF REPORT

- 1.1. For Members to consider an application from Northern Beer Traders Ltd Ltd for a premises licence to be granted under the Licensing Act 2003 at Traders, 111 – 115 Stockport Road, Marple, SK6 6AF.

2. DETAILS

- 2.1. Applicant: Northern Beer Traders Ltd (directors are Harry Fairhurst, Helen Fairhurst & Matthew Fairhurst)
Address: 118a Stockport Road, Marple, SK6 6AH.
Designated Premises Supervisor: Matthew Fairhurst
Name of Premises: Traders
Address of Premises: 111 – 115 Stockport Road, Marple, SK6 6AF.
Location Map: The location map can be found at **Appendix C1**.

3. BACKGROUND

- 3.1. On 12th April 2023, Northern Beer Traders Ltd made an application for a premises licence to be granted at 111 – 115 Stockport Road, Marple, SK6 6AF. The application is for the following activities:

- Sale of alcohol (on and off the premises) Monday- Sunday 11:00 – 00:00 hours.
- Recorded Music (indoors) Monday – Sunday 11:00 – 00:00 hours.

A copy of the application is attached at **Appendix A1**, DPS consent form at **Appendix A2** and plan of the premises at **Appendix A3**. Personal data has been redacted.

- 3.2. The premises currently has a Premises Licence, however the Premises Licence Holder wishes to extend the licensable area by knocking through into the next door premises. Previously, this could have been achieved by way of an application to vary the Premises Licence, however the most recent Statutory Guidance issued under section 182 of the Licensing Act 2003 states that it should be noted that a section 34 application cannot be used to vary a licence so as to:
- extend a time limited licence; vary substantially the premises to which the licence relates;
 - transfer the licence from one holder to another; or
 - transfer the licence from one premises to another.
- Therefore an application for a new Premises Licence has been submitted. The current Premises Licence can be found at **Appendix B1**.

3.3. 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 in the application form.

3.4. Further to the proposed conditions contained within the application form, the applicant has agreed further conditions with GMP. These are:

- The premise is to operate an effective CCTV system which is to be maintained in good working order at all times the premises is open for business.

- The recording medium (e.g. discs / tapes / hard drive etc) and associated images are to be retained and securely stored for a minimum period of 28 days and are to be made available to the Police Constable / Authorised Officer of the Licensing Authority upon request.

The Designated Premises Supervisor is to provide the Police with the contact details of at least two members of staff (or other person(s)) who are trained and familiar with the operation of the equipment so that, at the expense of the Premises Licence holder, they are able to check that the equipment is operating properly and that they are able to provide copies of recorded data upon request and within no more than 24 hours from the time of the request.

- The Premises Licence holder / Designated Premises Supervisor must notify the Licensing Office or the Police in the event of CCTV breakdown or malfunction as soon as is reasonably practicable and in any event within 24hrs.

- The premises will operate a "Challenge 25" proof of age policy which will require any person who appears to be under the age of 25 to produce identification to prove they are 18 or over.

- Only a passport, photo-card driving licence, Armed Forces ID cards or a proof of age card bearing the official "PASS" accreditation hologram should be accepted as proof of age.

- The premises is to maintain an incident book to record details of the following:-

- _ Any violence or disorder on or immediately outside the premises,
- _ Any incident involving controlled drugs (supply / possession or influence) on the premises,
- _ Any other crime or criminal activity on the premises,
- _ Any call for police assistance to the premises,
- _ Any ejection from the premises,
- _ Any first aid/other care given to a customer.

3.5. The applicant confirmed that the application was advertised on the boundary of the premises for 28 days from the 12th April 2023 and a copy of the notice was published in the Stockport Express on the 19th April 2023.

3.6. There has been 1 relevant representation to this application, relating to the Prevention of Public Nuisance licensing objective. The representation is from a

local resident. The representation is concerned with potential noise emanating from the premises because of the proposed licensable activity. The representation is attached at **Appendix D1**. Although personal details have been redacted from the representation in this published report, these details have been provided to the applicant.

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 December 2022. 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 2.20 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. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. copy of any document checked or a clear copy of the online right to work check) is retained at the licensed 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.
- 4.5 The Licensing Act section 182 statutory guidance also makes reference to planning and in particular paragraph 14.64 states The (councils) statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa. However, as set out in chapter 9, licensing committees and officers should consider discussions with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.
- 4.6 Paragraph 14.65 states that there are circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by Licensing Committees, where appropriate, providing regular reports to the planning committee.

5 OPTIONS

Following the consideration of the application the sub committee 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 Northern Beer Traders Ltd, in respect of 111 – 115 Stockport Road, Marple, SK6 6AF.

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's Licensing Policy, 2021 - 2026

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