



REPORT FOR DECISION

Status: Publication

Subject: APPLICATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003

Premises: Lekki Lounge, 3 Market Place, Middleton, M24 6AE

Report to: Licensing Sub-Committee

Date: 6 September 2021

Cabinet Member: Councillor Sara Rowbotham
Cabinet Member for Climate Change & Sustainability

Report of: Mark Widdup
Director of Neighbourhoods

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1 Purpose of Report

- 1.1 The report provides information to the Licensing Sub-Committee to assist in determining the application for a Premises Licence, made under Section 17 of the Licensing Act 2003, for Lekki Lounge, 3 Market Place, Middleton to which representations have been received from Responsible Authorities/Other Interested Persons.

2 Recommendations

- 2.1 Members are to determine the application and either:
- (a) Grant the application as submitted; or
 - (b) Grant the application, with appropriate conditions; or
 - (c) Reject the application.

3 Reason for Recommendation

- 3.1 The Licensing Sub-Committee has delegated authority to determine applications for Premises Licences when representations have been made by Responsible Authorities or Interested Persons.

4 The Application

- 4.1 The application was made on 9 July 2021.

4.2 Premises Licence Holder

Name: Mr Stanley Osademe-Patrick

4.3 The Designated Premises Supervisor

Name: Mr Stanley Osademe-Patrick

5 The Scope of Application for Licence

- 5.1 The applicant has described the premises as "an old pub. It has female and male toilets. There is a kitchen, three outlets, two front door and a back door, leading to a car park".

The following licensable activities are intended to be undertaken:

(F) Recorded Music ON the premises

Monday to Thursday	12.00 hours (noon) to 00.00 hours (midnight)
Friday and Saturday	12.00 hours (noon) to 02.00 hours
Sunday	12.00 hours (noon) to 00.00 hours (midnight)

(I) Late Night Refreshment ON and OFF the premises

Monday to Thursday	12.00 hours (noon) to 00.00 hours (midnight)
Friday and Saturday	12.00 hours (noon) to 02.00 hours
Sunday	12.00 hours (noon) to 00.00 hours (midnight)

(J) Supply of Alcohol ON and OFF the premises

Monday to Thursday	12.00 hours (noon) to 00.00 hours (midnight)
Friday and Saturday	12.00 hours (noon) to 02.00 hours
Sunday	12.00 hours (noon) to 00.00 hours (midnight)

(L) Opening Hours

Monday to Thursday	12.00 hours (noon) to 00.00 hours (midnight)
Friday and Saturday	12.00 hours (noon) to 02.00 hours
Sunday	12.00 hours (noon) to 00.00 hours (midnight)

5.2 Steps indicated to promote the Licensing Objectives

The steps the premises are intending to take to promote the licensing objectives are described in the application form as:

The Prevention of Crime and Disorder

1. Adequate CCTV have been installed on the premises to meet require standard
2. Criminal incidents will be reported to the Police.

Public Safety

1. Fire exits will be kept clear and visible with signs.
2. Premises has fire marshals for regular checks on fire extinguishers, fire alarms and smoke alarms.

The Prevention of Public Nuisance

1. Customers will be advised to leave quietly and to have regard to neighbours. Clear signs will be displayed.

The Protection of Children from Harm

1. Clear signs in respect of Challenge 25 will be displayed.

2. Staff have been trained with regards to underage sales. Proof of photographic ID will be requested from any persons who appear to be underage.
3. A refusal register will be kept and maintained on the premises.

The Application for a Premises Licence is attached as Appendix 1 of this report.

6 Relevant Representations

6.1 Legislation

Section 18 (3) Where relevant representations are made, the authority must:

- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
- (b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.

6.2 Responsible Authority Representations

- a) A representation was received from Greater Manchester Police (GMP) on 13 July 2021.

In summary, the representation is in relation to all the four licensing objectives – the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm. GMP has significant concerns regarding the application seeking a new premises licence. GMP are concerned that there is insufficient information provided by the applicant to instil confidence that the licensing objectives can be upheld. GMP have concerns around lack of information in respect of the management of customers; dispersal policies; no SIA door supervisors; how the applicant would deal with intoxicated / aggressive customers and other operational matters. GMP do not want a repeat that led to the revocation of the Premises Licence held by the previous licence holder (no associations) back in December 2019 / January 2020 which was subject to a police expedited review.

GMP's representation is attached as Appendix 2 of the report.

- b) A representation was received from the Weights and Measures Authority on 16 July 2021.

In summary, the representation is in relation to the licensing objective the protection of children from harm. The Authority stated that there was insufficient information from the applicant within the application for licence to demonstrate how the protection of children from harm licensing objective will be promoted. A number of conditions were suggested in part 3B of the representation form.

The applicant has since agreed the conditions with the Weights and Measures Authority. The representation and confirmation of agreement of conditions is attached as Appendix 3 of the report.

- c) A representation was received from the Environmental Health service on 3 August 2021.

In summary, the representation is in relation to the licensing objective, the prevention of public nuisance. The Environmental Health service sought information from the applicant as to how this licensing objective was going to be upheld. The acceptance of a Noise Management policy was suggested in part 3B of the representation form as a means of addressing noise nuisance issues.

The applicant has since agreed to accept and adopt the Noise Management policy. The contents of the Noise Management policy and confirmation of agreement is attached as Appendix 4 of the report.

7 The Council's Statement of Licensing Policy & National Guidance regarding licensing objectives

7.1 It is considered that the following policies may have a bearing on the application:

Extract(s) from Council's Licensing Policy:

(2.3) ...the Licensing Authority will exercise its licensing functions in order to promote the four Licensing Objectives which are:

- a) The prevention of crime and disorder;
- b) The prevention of public nuisance;
- c) Public safety; and
- d) The protection of children from harm.

(2.4) Each licensing objective is considered to be of equal importance within this Policy. They will be considered in relation to matters centred on the premises or within the control of the licensee and the effect if any, which the carrying on of that business has on the vicinity.

(10.2) Prevention of Crime and Disorder

In appropriate cases, the Authority will expect the applicant to indicate in his/her Operating Schedule the steps proposed to prevent crime and disorder, such as:

- Use of CCTV both within and outside the premises.
- Metal detection and search facilities.
- Measures to prevent the use or supply of illegal drugs.
- Employment and regulation of licensed door supervisors and other appropriately trained staff.
- Active participation in an appropriate Pub & Club Watch Scheme, or other scheme designed to ensure effective liaison with the local community, the relevant authorities and other licensees.
- Participation in a local radio/pager link scheme.
- A Dispersal Policy.

This list is not exhaustive and is provided, simply, to provide examples of appropriate proposals for inclusion in an operating schedule.

Reason

Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Council under the Crime and Disorder Act 1998. It is important, therefore, that the applicant be able to demonstrate to the Authority the practical steps that will be taken to further this objective.

(12.2) Location and Impact of Activity - This part of the policy is concerned with whether a proposal is appropriate in a location with particular regard to the impact on any residential areas. In most of the Borough, which is predominantly residential, the policy will in appropriate cases limit the *normal* hours of opening for new licensed activities to a maximum time which is no later than midnight.

Later opening hours are considered to be acceptable, in principle, for premises in commercial areas with high levels of public transport accessibility. However, in all cases, the granting of a licence will depend on impact of an activity, particularly on local residents. It is necessary to consider, amongst other things, the level of impact that could arise from noise and vibration, litter, parking, people coming and going, transport, crowds and queuing; and whether any impact is particularly unacceptable late at night.

Policy

If relevant representations are received, the Authority will *normally* expect a closing time of no later than midnight for licensed premises in residential areas, *but* a later closing time may be permitted for premises located:

- in predominantly commercial areas,
- where there is a high level of accessibility to public transport services; and
- where there is an appropriate amount of car parking, readily accessible to the premises, and in places where vehicular movement will not cause demonstrable adverse impact to local residents; and
- the Operating Schedule submitted with the application indicates that the applicant is taking appropriate steps to comply with the licensing objective of preventing public nuisance.

Exceptions may be made to permit a later closing time/earlier opening time where it can be demonstrated that:

- the licensed activities would not be likely to cause adverse impact especially on local residents, and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it; and
- there will not be any increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area.

Reason

This part of the policy dealing with opening hours is based on a broad distinction between the approach to be taken in certain predominantly commercial areas, like parts of the town centres, and the rest of the Borough.

Any activity involving public entertainment or eating or drinking on the premises has the potential to impact adversely on the surrounding area due to noise, smells, or congestion on the footway. It may also be caused by the customers being noisy when leaving, leaving litter or taking up on-street car parking space in close proximity to residential premises. The impact of noise generated by these activities, especially customers departing either on foot or in cars, is particularly intrusive at night when ambient noise levels are much lower.

Extract(s) from the National Guidance regarding licensing objectives

(1.17) Each application on its own merits - Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

(2.1) Crime and Disorder - Licensing authorities should look to the police as the main source of advice on crime and disorder.

(2.3) Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). 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.

(2.10) Ensuring safe departure of those using the premises - Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

(10.10) Proportionality - 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.

(14.9) The need for licensed premises - There can be confusion about the difference between the "need" for premises and the "cumulative impact" of premises on the licensing objectives, for example, on crime and disorder. "Need" concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.

8 Observations

8.1 The Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

8.2 In making its decision, the Committee is also obliged to have regard to National Guidance and the Council's own Licensing Policy.

8.3 Of course, the Committee must also have regard to the representations made and the evidence it hears.

8.4 The Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- (i) Grant the application as submitted.
- (ii) Grant the application, with appropriate conditions.
- (iii) Reject the application.

8.5 The Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.

8.6 Nonetheless, this is a matter for the Committee to determine in light of the above matters, and any others it considers material.

For further information about this report or access to any background papers, please contact Jahangir Alom, Licensing Operational Manager, in Neighbourhoods Service (Public Protection), Number One Riverside, Smith Street, Rochdale. OL16 1XU Telephone: 01706 924114.

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