

Licensing Panel

Licensing Act 2003 – Application for New Premises Licence

Donkeystone Brewing, Units A-D Wellington Industrial Park, Wellington Road, Greenfield, OL3 7AQ

Report of: Executive Member – Neighbourhoods

Officer Contact: Nicola Lord
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Date of Hearing: 14th September 2021

Reason for Hearing:

The purpose of this report is to inform members of an application for the grant of a premises licence in respect of Donkeystone Brewing, Units A-D Wellington Industrial Park, Wellington Road, Greenfield, OL3 7AQ which, due to representations being received, has been referred to this Panel for determination.

Recommendations

Members are recommended to consider the application taking into account the representations received.

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1. Purpose of Report

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2. Recommendations

2.1 Members are recommended to consider the application taking into account the representations received.

3. The Application

3.1 On 16th July 2021 the applicant, Donkeystone Brewing Company Ltd, applied for the grant of a premises licence for Donkeystone Brewing. The last date for representations in relation to this application was 13th August 2021.

3.2 Details of the licensable activities and the times applied for are as follows:

Activity	Indoors / Outdoors	Hours
Films	Indoors	Monday to Saturday, 08:00 to 23:00 Sunday, 09:00 to 23:00
Live Music	Indoors	Monday to Saturday, 08:00 to 22:00 Sunday, 09:00 to 22:00
Recorded Music	Indoors	Monday to Saturday, 08:00 to 23:30 Sunday, 09:00 to 23:30
Supply of Alcohol	For consumption on & off the premises	Monday to Saturday, 08:00 to 23:00 Sunday, 09:00 to 23:00 From the end of permitted hours on NYE to the start of permitted hours of New Year's Day

3.5 A copy of the application and proposed plan is attached at **Appendix 1**.

3.6 A location map is attached at **Appendix 2**.

4. Representations

4.1 Following submission and advertisement of the application a responsible authority representation was received from Greater Manchester Fire & Rescue Service and multiple interested party representations were received. These can be found at **Appendix 3** to the report. It should be noted that only the highlighted information within the interested party representations is deemed relevant for the purposes of determining this application.

4.2 It should also be noted that following consultation with Environmental Health, their representation was withdrawn due to the applicant agreeing to the following conditions being placed on their licence should it be granted:

- All customers must leave the premises by 23:30
- Consumption of food or drink by customers outside the building shall be restricted to between the hours of 09:00 and 20:00 and shall be restricted to the area adjacent to the south western façade of the building only
- No recorded music shall be played in the premises between 23:00 and 08:00
- Any customers wishing to smoke outside of the premises must only do so to the south western façade of the building
- All external doors and windows shall be kept closed when entertainment is being provided, other than for access & egress and in the event of any emergency. If additional ventilation is subsequently necessary, then it shall be attenuated in accordance with a scheme submitted to the licensing authority
- Notices requesting customers leave quietly must be displayed in a prominent position next to each exit
- Management must undertake regular door checks to ensure no noisy disturbances take place outside and if any do occur management will resolve them as quickly as possible either by:
 - Encouraging customers to continue on their home/onward journey quickly
 - Asking customers to return inside whilst waiting for transport
 - Order taxis for customers so they come quickly so there is no delay
- Disposal of empty bottles will not take place between 23:00 and 07:00 on any day
- The DPS or Duty Manager will ensure periodic noise monitoring at the boundary of any adjacent noise sensitive buildings and must reduce the volume of the entertainment if the noise from the premises is audible

5. Licensing Policy

5.1 Members considering this application should take note of the Authority's Licensing Policy Statement. Attention should be drawn to Section 6 – Crime & Disorder, Section 7 – Public Safety and Section 8 – Public Nuisance.

5.2 A full copy of the Councils Licensing Policy Statement will be available at the hearing.

6. Secretary of State's Guidance

6.1 Members also need to consider statutory guidance issued, by the Secretary of State, under Section 182 of the Licensing Act 2003.

6.2 Chapter 2 of the Guidelines deals with the Licensing Objectives and potential measures licence holders and the licensing authority should consider, to ensure they are not being undermined.

6.3 Paragraph 2.3, in relation to crime & disorder, provides:

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

6.4 Paragraph 2.10, in relation to public safety, provides:

2.10 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

6.5 The following paragraphs, in relation to public nuisance, provide:

2.16 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.

2.17 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.

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.

2.19 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 unreasonable 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 performance 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.

2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of the 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 required the licence holder or club to place signs at the exits from the building encouraging patrons 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.

6.4 A full copy of the guidelines will be available at the hearing.

7. Options

7.1 When determining the application Members, having had regard to the representations, may take such steps as they consider appropriate for the promotion of the licensing objectives. The steps available to Members are:

- a. Grant the application as applied for with or without the amendments agreed with Environmental Health
- b. Grant the application but modify the operating schedule in relation to hours, days, conditions, or activities
- c. Reject the application

7.2 Any steps appropriate to promote the licensing objectives should be specified. If none of the steps are appropriate and proportionate, no action should be taken.

7.3 In arriving at a decision Members must have regard to the relevant provisions of national guidance and the licensing policy statement and reasons must be given for any departure.

7.4 The decision should be based on the individual merits of the application.

8. Consultation

8.1 Consultation in accordance with the Act has taken place with all responsible bodies and notice has been given to allow for any representations from interested parties.

9. Legal Services Comments

9.1 In determining the application Members should have regard to the Authority's licensing policy statement and the Secretary of State's Guidance. The applicant for the premises licence or any other person who made relevant representations in relation to the application have a right of appeal to the Magistrates' court. (S Rawat)

10. Environmental and Health & Safety Implications

10.1 Contained within the body of the report.

11. Equality, Community Cohesion & Crime Implications

11.1 The Councils Statement of Licensing Policy considers these matters. All decisions made by the Licensing Panel must have regard to this policy and national guidance.

12. Equality Impact Assessment Completed?

12.1 No

13. Background Papers

13.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act:

File Ref: Records held in Directorate
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14. Appendices

Appendix 1 – Application & plan
Appendix 2 – Location map
Appendix 3 – Representations