

BARNSELY METROPOLITAN BOROUGH COUNCIL

**Report of the Principal
Officer (Licensing) to the
meeting of the Statutory
Licensing Regulatory Board
Sub Committee to be held
on the 5th April 2023**

LICENSING ACT 2003

APPLICATION TO VARY A PREMISES LICENCE

The Pheasant, Cross Street, Monk Bretton, Barnsley

1. Background

- 1.1 Mr Etherington has held the current premises licence for The Pheasant, Cross Street, Monk Bretton, Barnsley since the 6th April 2021. A copy of the current licence is attached as appendix 1 to the report.
- 1.2 On 13th January 2023, a complete variation application under the provisions of the Licensing Act 2003 was received for, The Pheasant, Cross Street, Monk Bretton, Barnsley. A copy of the variation application is attached as Appendix 2.
- 1.2 Members are requested to determine the application for a variation to the existing premises licence.
- 1.3 The premises is situated on Cross Street in Monk Bretton and is surrounded by a variety of local amenities including retail and residential premises.

2 Application to Vary the Premises Licence

- 2.1 The premises licence variation application requests the licence to take effect as soon as possible and requests the following licensable activities:

a) Provision of Live Music

Monday to Sunday 09:00 – 00-00

The performance of live music will take place both indoors and outdoors and will be amplified and unamplified.

b) Recorded Music

Monday to Sunday 09:00 – 00-00

The performance of recorded music will take place both indoors and outdoors and will be amplified and unamplified.

3 Promotion of Licensing Objectives

- 3.1 The applicant has described the steps he intends to take to promote the four licensing objectives, and states these as follows:-

General – all four licensing objectives:-

Risk Assessment

A proof of age scheme such as Challenge 25 shall operate at the premises and all staff shall be trained in its implementation. Only photographic ID such as a British driving licence or a passport shall be treated as acceptable forms of identification.

The CCTV system shall be maintained in good working order and at all times the premises is open to the public, and be fully operational, covering both internal and external areas of the premises to which the public have access.

The CCTV camera views shall not be obstructed.

The medium on which CCTV images are recorded shall be of evidential quality; be stored securely; be retained for a period of 14 days, and be available for inspection by the police or authorised officers on request.

When the premises are open for the purposes of licensable activities, a suitably trained member of staff shall be present to assist the Police or authorised officers in obtaining the CCTV footage.

Copies of any CCTV image shall be made available within 48 hours of the request to the police or local authority.

The Prevention of Crime and Disorder:-

The licence holder shall actively participate in any local Pubwatch or similar scheme.

The premises shall operate a dispersal policy and all staff shall be trained in its implementation.

The premises licence holder shall ensure that CCTV cameras and recorders are installed at the premises and are of a standard acceptable to and approved by the Police and Licensing Officers.

If a person is causing disorder they will be asked to leave the premises or will be escorted off the premises and the police will be contacted if needed.

Public Safety:-

The safety of the public is number one priority so there will be regular risk assessments taken place to make sure everything on the premises is safe for the public.

A refusals and incident logbook shall be maintained by the premises that details incidents of note that occur in the premises. This shall include refused sales, disorder, and ejections as a minimum. The logbook shall be kept on the premises and be available for inspection at all times the premises is open, and management shall regularly check the book to ensure all staff are using it.

Signs must be displayed in the customer areas to advise that CCTV is in operation.

The premises shall operate a zero-tolerance policy to drug and psychoactive substance use and posters shall be prominently displayed to this effect.

The licensee shall undertake a risk assessment of any promotion or event and provide a copy to the Police licensing team and the licensing authority not less than 14 days before the event is due to take place.

Following submission of the risk assessment, all directions of the Police shall be complied with, including cancellation of an event if necessary.

All bar servers shall be trained in how to identify drunk or drug and psychoactive substance impaired customers.

The Prevention of Public Nuisance:-

To prevent public nuisance the person or people will be escorted off the premises by my self and if they continue to be a nuisance on the street the police will be called.

There shall be no admittance or re-admittance to the premises after closing time.

Customers shall be supervised when leaving the premises and shall be asked to leave quietly.

If there is any further problems then the police will be contacted.

The Protection of Children From Harm:-

As stated before there will be regular risk assessments taken to ensure no harm came to any children and anyone else for that matter. We will do to the best of are ability keep everyone safe.

Children will be supervised by an adult at all times any child/children that are not accompanied by an adult will be asked to leave the premises.

The safety of any children on our premises will be a top priority.

4 Responsible Authorities

- 4.1 During the 28 day consultation period, no representations were received from the Responsible Authorities under the provisions of the Licensing Act 2003. The Environmental Health Officer requested a noise management plan from the applicant to address potential noise concerns at the premises. The noise management plan was agreed and contains the following:-

The Pheasant - Noise Management Plan (Rev A)

Noise Management Plan

The Pheasant is permitted to play live acoustic or recorded music outdoors twice a month up to 22:00 Sunday to Thursday and 23:00 Friday and Saturday.

To reduce noise being emitted from the premises, we will adhere to the following actions:

- **All doors and windows of the premises on floor where entertainment is taking place should be closed during live entertainment events but not apply to background music.**
- **Music will be barely audible at the nearest premises boundary (assessed by premises manager) so that the words to songs are not audible.**
- **Music will not be audible inside the nearest residential property (assessed by qualified officer)**
- **Deliveries and refuse collection will be undertaken during normal business hours of between 8am and 5pm, Monday to Saturday with no deliveries or refuse collection on Sundays**
- **Signage will be displayed in a prominent position asking customers to respectful of neighbours or equivalent**
- **Management will record any complaints or concerns that neighbours may submit. Recording the nature of the complaint, dates, times and if acceptable, contact details. The log of any complaints shall be kept onsite and made available to Local Authority on request.**

Dated: 10/02/2023

Noise Management Plan to be reviewed annually or at the request of the local authority.

Next review due 23/02/2024

A copy of the noise management plan is attached as Appendix 5.

- 4.2 No other representations have been received from Responsible Authorities in this matter.

5 Interested Parties

- 5.1 Following publication of the statutory notice of the application for the premises licence in the local press and the display of notices at the premises, eight representations have been received from interested parties.

- 5.2 The representations have been received from:

Andrew and Diane Leigh

Mr/Mrs/Ms Ellis

Mike Everson

Kathleen and David Copping

John and Gaynor Clark

David McMahon

Mr and Mrs Wilson – Mr Clegg

Councillor Steve Green

All representations relate to the licensing objectives and they are attached as Appendix 4.

- 5.3 Following the receipt of the representations, Licensing Field Officer Martin Cooper has spoken to all parties to try and reach an agreed position to satisfy all concerned. To date no agreement has been reached.

- 5.4 Under the provisions of the Licensing Act 2003, representations can be made from Interested Parties who live or have any interest in a business that is located within the vicinity of the premises where the application has been made. In this case the interested parties reside close to, if not within the immediate vicinity of the licensed premises.

6 Compatibility with the European Convention on Human Rights

The decision of the Board will amount to a determination of the Council and the rights of the applicant. Therefore, as far as it is possible to do so, the board must comply with the requirements of Article 6 (the right to a fair trial). This means the applicant should be afforded the right to make oral representations at the meeting.

It is important to note that the Statutory Licensing Panel can only base its decision in relation to licence applications on evidence that relates to one or more of the licensing objectives, and not speculation.

The Authority will examine the potential for harm and if it is satisfied that this is real, then it may take sufficient measures to prevent this harm from occurring. This principle has been approved by the High Court, in the case of *Daniel Thwaites Plc v Wirral Borough Magistrates' Court* (6 May 2008). This High Court case also established the principle that regulation by a local Licensing Authority should be a 'light touch', and that conditions should be attached to licences only so far as is necessary to promote the licensing objectives.

If Members determine to refuse the application, it is necessary for the reasons to be clearly stated.

7 Financial Implications

Not applicable.

8 List of Appendices

Appendix 1 - Copy of the current premises licence

Appendix 2 – Application to vary the premises licence

Appendix 3 – Plan of the premises

Appendix 4 – Representations from Interested Parties

Appendix 5 – Noise Management plan agreed by Environmental Health Officer

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Date: 14th March 2023