



City of
BRADFORD
METROPOLITAN DISTRICT COUNCIL

Report of the Assistant Director Waste, Fleet & Transport Services to the meeting of Bradford Area Licensing Panel to be held on 6 November 2018.

Subject:

Application for a Review of a Premises Licence for Mill Hey Brew House, 2 Mill Hey, Haworth, BD22 8NQ

Summary statement:

Application for review of a Premises Licence authorising the sale of alcohol and the provision of regulated entertainment.

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Portfolio:

Neighbourhoods & Community Safety

Overview & Scrutiny Area:

Corporate

1. SUMMARY

The application is for the review of a Premises Licence authorising the sale of alcohol and provision of regulated entertainment.

2. BACKGROUND

2.1 The Premises

Mill Hey Brew House, 2 Mill Hey, Haworth, Keighley, BD22 8NQ.

2.2 Premises Licence holder

Mr Neil Tomlinson.

2.3 Designated Premises Supervisor

Mr Neil Tomlinson.

A copy of the Licence is attached at Appendix 1.

2.4 Application Received asking for a Review of the Licence

Responsible Authority

Since April 2017, the Environmental Health Department has received regular noise nuisance complaints from local residents. The main source of the noise is amplified music and customers talking, shouting and laughing outside of the premises late at night and in the early hours of the morning.

Letters have been sent to the premises licence holder/DPS, Mr Neil Tomlinson, to make him aware of the complaints. Monitoring was undertaken in 2017 by Environmental Health Officers and a statutory nuisance was witnessed, which resulted in an Abatement Notice being served on Mr Tomlinson.

Unfortunately, Mr Tomlinson has failed to address the noise issues and three contraventions of the Abatement Notice have been witnessed by Environmental Health Officers.

Recordings of the noise will be used to support this application.

In order to address the prevention of public nuisance objective, Members are asked to consider dis-applying the live music exemption under the Live Music Act 2012 and the imposition of additional conditions providing for noise prevention measures including the use of a noise limiting device, levels to be agreed with the Council's Environmental Health Department, noise from amplified and non-amplified music, singing and speech, arising from regulated entertainment not being audible at the nearest noise sensitive premises, hours of regulated entertainment being restricted to Monday to Sunday 09.00 to 23.00 hours, with an additional hour on

statutory public holidays, windows and doors to remain closed during periods of entertainment (which would also apply to live music if the live music exception was dis-applied) and the external areas to be cleared of customers by 22.00 hours with appropriate signage displayed.

The application for review is attached at Appendix 2.

Please contact the Environmental Health Officer, Jeanette Howarth, 01274 433963 or jeanette.howarth@bradford.gov.uk, if you wish to arrange to listen to the noise recordings prior to the meeting. The recordings will be played at the meeting.

2.5 Representations

Responsible Authorities

Local Authority Licensing Enforcement Officer

A representation has been received from the Licensing Enforcement Officer, who has continued to receive noise complaints and alleged breaches of permitted hours and conditions of the licence from November 2016. Advice letters have been sent to Mr Tomlinson, drawing his attention to the nuisance and alleged breaches.

In order to address the prevention of public nuisance objective, the Local Authority Licensing Enforcement Officer supports the imposition of additional conditions requested by the Environmental Health Officer and also the dis-application of the live music exemption of the Live Music Act 2012.

The representation from the Licensing Enforcement Officer is attached at Appendix 3.

Individual, Body or Business

A letter of representation has been received from a local resident who is being disturbed by noise nuisance caused by the provision of regulated entertainment, the performance of live music and noise caused by patrons leaving the premises late at night. The resident also has concerns about breaches of the licensing condition regarding doors and windows which should be kept closed after 22.00 hours.

The representation is attached at Appendix 4.

31 letters in support of events held at the premises have been received.

The letters of support are attached at Appendix 5.

3. OTHER CONSIDERATIONS

Legal Appraisal

- 3.1** The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance
- d) the protection of children from harm

3.2 The Council must also have regard to the Guidance issued by the Home Office under Section 182 of the Licensing Act 2003. Paragraphs 11.1 to 11.30 of the Guidance specifically details how applications for review of licences should be determined. Regard must also be taken of the Council's statement of Licensing Policy for the District.

An extract of the Home Office Guidance is attached to this report at Appendix 6.

3.3 Where it is decided it is necessary to depart from the statutory guidance or the Licensing Policy on the merits of a particular case; then special reasons justifying this must be given that can be sustained.

3.4 Only "relevant representations" can be taken into account. In order to be "relevant" a representation must fairly relate to achieving a licensing objective. If it does not, it must be discounted.

3.5 Any licensing conditions that Members may propose attaching must also relate to achieving one of the licensing objectives; be tailored to the actual premises and style of licensable activity; must be reasonably achievable by the applicant and in his/her control.

Statement of Policy Issues

3.6 The following parts of the Licensing Policy are of particular importance; Part 6 (Prevention of Public Nuisance).

3.7 The Annexes to the Policy sets out various types of model condition that could be considered.

4. FINANCIAL & RESOURCE APPRAISAL

There are no apparent finance or resource implications.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

There are no apparent risk management implications.

6. LEGAL APPRAISAL

Referred to in part 3 of this report.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

The Council has to comply with the public sector equality duty in S.149 Equality Act

2010.

7.2 SUSTAINABILITY IMPLICATIONS

There are no apparent sustainability implications.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

There are no apparent implications.

7.4 COMMUNITY SAFETY IMPLICATIONS

When determining the application the Licensing Authority is required to pay due regard to the licensing objectives referred to in 3.1 of this report.

7.5 HUMAN RIGHTS ACT

The following rights are applicable:

Article 1 First Protocol to the Convention – Right to peaceful enjoyment of possessions subject to the state's right to control the use of property in accordance with the general interest. The Council's powers set out in the recommendations fall within the states right. A fair balance must be struck between public safety and the applicant's rights.

Article 6 – A procedural right to a fair hearing. As refusal of the application is an option, adherence to the Panels' usual procedure of affording a hearing to the applicant is very important. The applicant should also be able to examine the requirements of the fire authority. If the decision is to refuse then reasons should be given.

7.6 TRADE UNION

Not applicable.

7.7 WARD IMPLICATIONS

Ward Councillors have been notified of receipt of the application.

8. NOT FOR PUBLICATION DOCUMENTS

None.

9. OPTIONS

9.1 Members may:

- (a) Refuse the application for review of the licence; or
- (b) Decide not to impose any further restrictions on the licence; or

- (c) Decide to impose additional restrictions or remove any licensable activities on the licence, where necessary in order to address the licensing objectives; or
- (d) Suspend the licence for a period not exceeding 3 months; or
- (e) Revoke the premises licence; or
- (f) Remove the named Designated Premises Supervisor from the Licence.

9.2 Should the applicant or any other party to the hearing feel aggrieved at any decision with regard to the licence or to any conditions or restrictions attached by Members they may appeal to the Magistrates Court.

10. RECOMMENDATIONS

Members are invited to consider the information and documents referred to in this report and, after hearing interested parties, determine the related application(s).

11. APPENDICES

1. Premises Licence
2. Application for review received 11 September 2018.
3. Representation from the Local Authority Licensing Enforcement Officer
4. Letter of representation.
5. Letters of support.
6. Extract from the Government Guidance.

12. BACKGROUND DOCUMENTS

Application form, plan etc.