

Leicester
City Council

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FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
Hearing under the Licensing Act 2003

7th December 2021

**Application for a variation of an existing premises licence within a Cumulative
Impact Zone
2Funky Bar & Kitchen 23 New Park Street, Leicester, LE3 5NH**

Report of the Director of Neighbourhood and Environmental Services

1. Purpose of Report

- 1.1. This report provides information for Members about an application made under the Licensing Act 2003, to assist them in determining the outcome of that application.

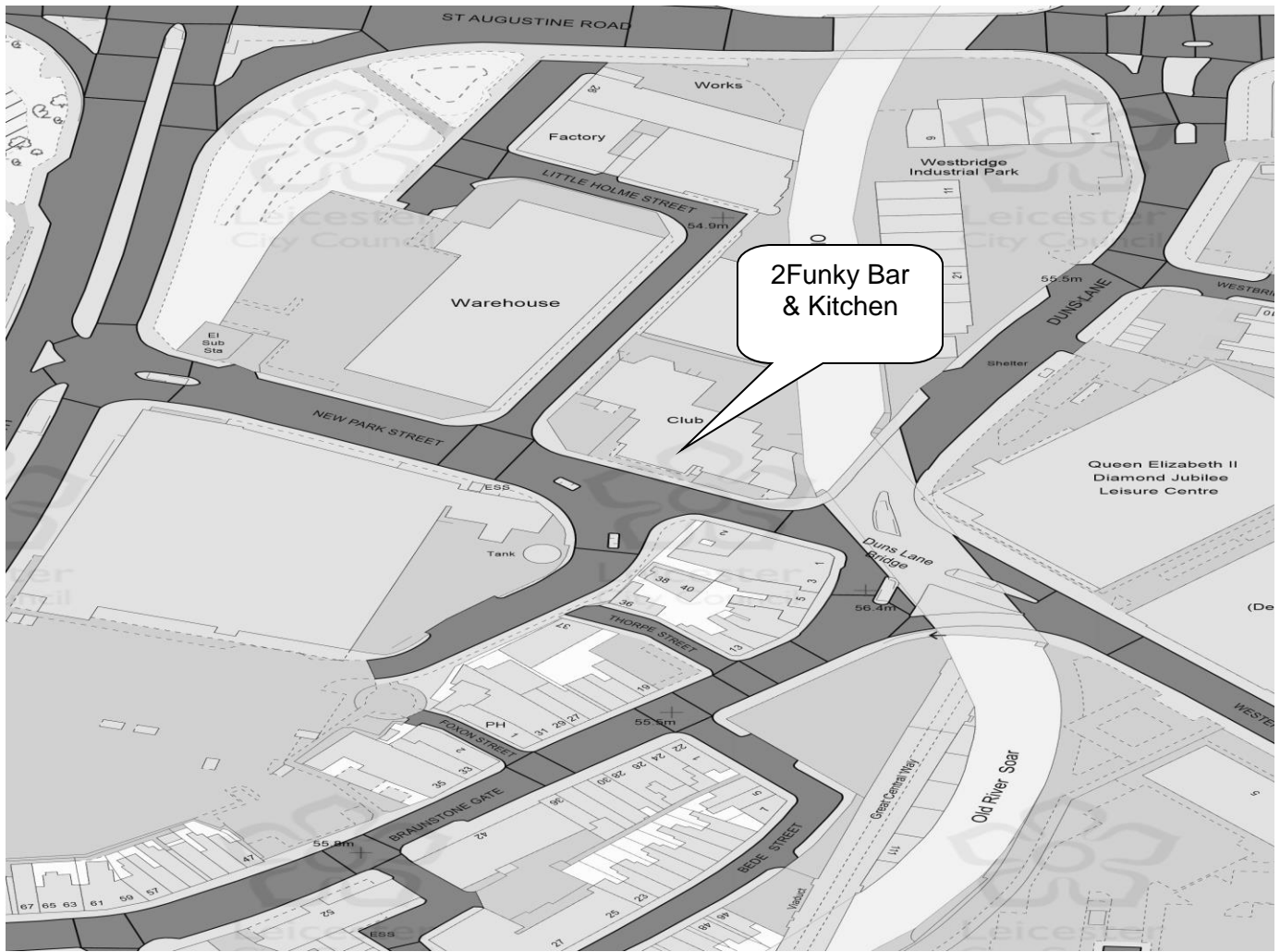
2. Determination to be made

- 2.1. Having considered the application and representation(s), Members must consider whether to
- Grant the licence without modification
 - Modify the conditions of the licence
 - Reject the whole application

3. Summary

- 3.1 This report outlines an application for a variation to an existing premises licence for 2Funky Bar & Kitchen within the Braunstone Gate area Cumulative Impact Zone and summarises the representations received. It also highlights the licensing objectives, the relevant parts of the guidance and regulations, and the pertinent sections of the Licensing Authority's Licensing Policy.

4. Location Plan



5. Existing Licence

5.1. The existing licence is attached at Appendix A.

6. Application

6.1 An application was received on 20th October 2021 from Mr Vijay Mistry for a variation to an existing premises licence for 2Funky Bar & Kitchen within the Braunstone Gate area Cumulative Impact Zone. A copy of the application is attached at Appendix B.

6.2 The variation sought by the application is as follows:

Licensable activity	Current Hours	Proposed Hours
Live Music	Mon – Sun 11.00 – 02.00 Indoors	Sat – Sun 14.00 – 02.00 Outdoors
Recorded Music	Mon – Sun 11.00 – 02.00 Indoors	Sat – Sun 14.00 – 02.00 Outdoors
Performances of Dance	Mon – Sun 11.00 – 02.00 Indoors	

Late night refreshment	Mon – Sun 23.00 – 02.00 Indoors	
Supply of Alcohol	Mon – Sun 11.00 – 02.00	
Opening hours	Mon – Sun 11.00 – 02.00 on sales	Mon -Sun 11.00 – 02.00 on & off sales

7. Steps to Promote the Licensing Objectives

- 7.1 The steps the applicant proposes to take to demonstrate that the premises will not add to the existing cumulative impact and promote the licensing objectives are set out in the operating schedule (see section M of Appendix B).
- 7.2 In arriving at its decision on the application, the Licensing Authority's primary consideration must be the promotion of the licensing objectives.

8. Regulated Entertainment

- 8.1 The Live Music Act 2012 and the Legislative Reform (Entertainment Licensing) Order 2014 amended the Licensing Act 2003 in relation to the provision of regulated entertainment. Certain entertainment does not require a licence subject to audience limits, between 08.00 and 23.00 hours each day.
- 8.2 The above exemptions may affect the application under consideration because conditions may not be imposed at this stage to control live or recorded music that is unregulated. However, if problems do occur as a result of that entertainment then conditions may be imposed to control such music in the future after a formal review.

9. Representation

- 9.1 A representation was received on 1st November 2021 from the Noise & Pollution Control Team. The representation relates to the prevention of public nuisance. The Noise & Pollution Control Officer is concerned that allowing music outside will cause noise nuisance to local residents. A copy of the representation is attached at Appendix C1.
- 9.2 A representation was received on 21st October 2021 from Leicestershire Police. The representation relates to the prevention of crime and disorder and public safety. Leicestershire Police are concerned that the proposed changes could lead to anti-social behaviour and crime and disorder in the area. Leicestershire Police have proposed two conditions to be added to the licence. These have been agreed with the applicant. A copy of the representation and agreement are attached at Appendix C2.

10. Conditions

- 10.1 The conditions that are consistent with the operating schedule and the representation are attached at Appendix D.

11 Cumulative Impact

- 11.1 In February 2005 Leicester City Council introduced a special policy on cumulative impact in the Braunstone Gate area, which refers specifically to on and off licences. The licensing authority must have regard to the special policy. However, this does not change the fundamental way that licensing decisions are made. It is therefore open to the licensing authority to grant an application where it considers it is appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact.

12. Statutory Guidance

- 12.1 Any decision made by the Licensing Authority must be in accordance with the licensing objectives. In addition, the government has issued guidance under section 182 of the Licensing Act 2003. The parts of the guidance that are particularly relevant in this case are as follows:

Section	Heading
1.2 – 1.5	Licensing Objectives and aims
1.15 – 1.16	General Principles
1.17	Each application on its own merits
2.1 – 2.6	Crime & disorder
2.7 – 2.14	Public safety
2.15 – 2.21	Public nuisance
3.12 – 3.20	Late night refreshment
8.41 – 8.49	Steps to promote the licensing objectives
9.11 – 9.12	Role of responsible authorities
9.31 – 9.41	Hearings
9.42 – 9.44	Determining actions that are appropriate for the promotion of the licensing objectives
10.1 – 10.3	Conditions - general
10.8 – 10.9	Imposed conditions
10.10	Proportionality
10.13 - 10.15	Hours of trading
10.25 – 10.66	Mandatory conditions in relation to the supply of alcohol
13.10 – 13.11	Giving reasons for decisions
14.20 – 14.23	What is cumulative impact?
14.39 – 14.43	Effect of special policies
14.44 – 14.46	Limitations on special policies relating to cumulative impact
14.47 – 14.48	Other mechanisms for controlling cumulative impact
14.51 – 14.52	Licensing Hours
16.1 – 16.69	Regulated entertainment

13. Statement of Licensing Policy

- 13.1 The relevant parts of the Licensing Authority's Statement of Licensing Policy are as follows:

Section	Heading
2	Fundamental Principles
3	Cumulative Impact
4	Policy on Cumulative Impact
5	Licensing Hours
7	Prevention of Crime and Disorder
8	Public Safety
9	Prevention of Public Nuisance
11.4 – 11.5	Planning
12	Duplication
13	Standardised conditions
17	Live Music, Dancing, Theatre, Circuses and Street Arts

14 Points for Clarification

14.1 The applicant and the party / parties making the representation have been asked to clarify certain points at the hearing, as follows:

By the applicant

1. Whether the applicant considers that the concerns outlined in the representations are valid, and if not why not?
2. In the light of the representations made, does the applicant wish to propose any additional steps for the promotion of the licensing objectives?

By the party making the representation

1. Whether they have any additional information to support the representation they have made?
2. Whether there are any additional steps that could be taken which would be equally effective in the promotion of the licensing objectives?

15. Other Implications

OTHER IMPLICATIONS	YES/ NO	Paragraph/References Within Supporting information
Equal Opportunities	No	
Policy	Yes	The premises is within a cumulative impact area
Sustainable and Environmental	No	
Crime and Disorder	Yes	Paragraph 9.2
Human Rights Act	No	
Elderly/People on Low Income	No	
Corporate Parenting	No	
Health Inequalities Impact	No	

16. Background Papers – Local Government Act 1972

16.1 None.

17. Consultations

17.1 As this application was received electronically, the Licensing Authority was required to consult with the relevant responsible authorities as set out in the Licensing Act 2003.

18. Report Author

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APPENDIX	CONTENT
A	Existing licence
B	Application
C	Representations
D	Conditions consistent with application and representation / agreement