

**AGENDA FOR
LICENSING HEARING SUB COMMITTEE**



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To: All Members of Licensing Hearing Sub Committee

Councillors : G McGill (Chair), G Marsden and M Walsh

Dear Member/Colleague

Licensing Hearing Sub Committee

You are invited to attend a meeting of the Licensing Hearing Sub Committee which will be held as follows:-

Date:	Monday, 18 March 2024
Place:	Virtual meeting via Microsoft Teams
Time:	1.00 pm
Notes:	To view the virtual meeting online, please email m.cunliffe@bury.gov.uk or phone 0161 2535399 who will provide you with a link to view the meeting via MS Teams or telephone you into meeting with the option of audio only.

AGENDA

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

Members of the Licensing Hearing Sub Committee are asked to consider whether they have an interest in any matter on the agenda, and, if so, to formally declare that interest.

3 APPLICATION FOR A VARIATION TO A PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF THE BOWER, 403 BOLTON ROAD WEST, RAMSBOTTOM, BL0 9RN *(Pages 3 - 14)*

A report from the Executive Director (Operations) is attached:-



Classification	Item No.
Open / Closed	

Meeting:	Licensing Hearings Sub-Committee
Meeting date:	18 March 2024
Title of report:	Application for a Variation to a Premises Licence under the Licensing Act 2003 in respect of The Bower, 403 Bolton Road West, Ramsbottom, BL0 9RN
Report by:	Executive Director (Operations)
Decision Type:	Council
Ward(s) to which report relates	Ramsbottom

Executive Summary:

This report relates to an application to vary a Premises Licence under section 34 of the Licensing Act 2003 in relation to The Bower, 403 Bolton Road West, Ramsbottom, BL0 9RN. One representation has been received from an interested party.

Recommendation(s)

That:

- To refuse the application
- To grant the application in the terms requested
- To grant the application subject to conditions
- To amend or modify existing or proposed conditions

1.0 BACKGROUND

1.1 The Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations are the relevant legislation.

1.2 The Panel will make a decision on the day of the hearing and the parties will be notified subsequently of the decision and the reasons for it by letter from the Licensing Office.

2.0 INTRODUCTION

- 2.1 The applicant for the licence in respect of the above premises is The Bower (NW) Limited, 403 Bolton Road West, Ramsbottom, BL0 9RN. Mr Nicholas Andrew Simmons is the Designated Premises Supervisor (DPS) at these premises since 29 January 2024.
- 2.2 The applicant has complied with all the necessary procedural requirements laid down by the Act.
- 2.3 As part of the statutory process the Responsible Authorities and interested parties are entitled to make representations in relation to the grant of a licence. Where representations are made and not withdrawn Members are required to determine them.
- 2.4 Representations must be relevant to the licensing objectives defined within the Act. The objectives are:-
- the prevention of crime and disorder
 - public safety
 - prevention of public nuisance and
 - protection of children from harm

3.0 THE APPLICATION

- 3.1 The application is for the Variation of a Premises Licence under Part 3 of the Licensing Act 2003:

The Current operating schedule shows the following:

Supply of alcohol – For consumption on the Premises.

Tuesday to Thursday	11.00 to 16.30
Friday to Saturday	11.00 to 21.30
Sunday	10.30 to 14.30

Live Music (Indoors)

Tuesday to Thursday	09.30 to 17.00
Friday to Saturday	09.30 to 22.00
Sunday	10.00 to 15.00

Recorded Music (Indoors)

Tuesday to Thursday	09.30 to 17.00
Friday to Saturday	09.30 to 22.00
Sunday	10.00 to 15.00

Hours open to the Public

Tuesday to Thursday	09.30 to 17.00
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Friday to Saturday	09.30 to 22.00
Sunday	10.00 to 22.00

The conditions currently attached to the existing premises licence are attached at appendix 1

3.2 Proposed Variation – Opening Hours

Sunday to Thursday	10.00 to 00.00
Friday to Saturday	10.00 to 01.30

Seasonal Variations

Christmas Eve	10.00 to 01.00
New Years Eve	10.00 to 01.00
Sundays Preceding Bank Holiday Monday	10.00 to 01.00
Thursday preceding Good Friday	09.30 to 01.00

Supply of alcohol – For consumption On/Off the Premises.

Monday to Sunday	10.00 to 00.00
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Seasonal Variations

Christmas Eve	10.00 to 01.00
New Years Eve	10.00 to 01.00
Sundays Preceding Bank Holiday Monday	10.00 to 01.00
Thursday preceding Good Friday	09.30 to 01.00

Provision of Late-night Refreshment

Monday to Sunday	23.00 to 00.00
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Seasonal Variations

Christmas Eve	23.00 to 01.00
New Years Eve	23.00 to 01.00
Sundays Preceding Bank Holiday Monday	23.00 to 01.00
Thursday preceding Good Friday	23.30 to 01.00

3.3 It should be noted that the timings on this licence predate the implementation of the Live Music Act 2012 which now permits the premises to have regulated entertainment (Live Music and Recorded Music) Monday to Sunday between 8.00 until 23.00.

4.0 REPRESENTATION FROM INTERESTED PARTY

4.1 Three relevant representations have been received from interested parties against this application a summary of this is detailed below:-

- Noise
- Residential Area.

4.2 The representation is attached at Appendix 2.

5.0 THE SECRETARY OF STATES GUIDANCE TO THE LICENSING ACT 2003

5.1 The Secretary of State's Guidance to the Licensing Act 2003 is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.

5.2 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The Guidance is therefore binding on all licensing authorities to that extent. However, the Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons.

5.3 Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

6.0 CONCLUSION

6.1 A licensing authority must carry out its functions under this Act ("licensing functions") with a view to promoting the licensing objectives:

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

6.2 In reaching the decision, regard must be had to relevant provisions of the national guidance and the Council's licensing policy statement.

6.3 The Sub-Committee must consider what steps are appropriate for the promotion of the

licensing objectives.

- 6.4 In making its decision with regard to this variation hearing, the steps the Sub-Committee can take are:
- To refuse the application
 - To grant the application in the terms requested
 - To grant the application subject to conditions
 - To amend or modify existing or proposed conditions
- 6.5 All licensing determinations should be considered on the individual merits of the application.
- 6.6 The Sub-Committee's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. Findings on any issues of fact should be on the balance of probability.
- 6.7 It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal.
- 6.8 The Sub-Committee is asked to determine what steps, as set out in 7.4 above, are appropriate for the promotion of the licensing objectives.

Community impact/links with Community Strategy

Not Applicable

Equality Impact and considerations:

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

The public sector equality duty requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.

Equality Analysis	<i>Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.</i>
<i>The Licensing Service have considered the Equality Act 2010 and due to each application being dealt with on its own merits there is no positive or negative on any of the protected characteristics.</i>	

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
There are no specific issues from the report other than potential costs/risks associated with legal appeals.	

Consultation:

Not Applicable

Legal Implications:

Yes, under the legislation the Council is required to determine representations. The report is in accordance with the appropriate legislation.

Financial Implications:

The cost of the licensing function are funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.

Report Author and Contact Details:

For further information on the details of this report, please contact:

Mr M Bridge
Licensing Office
Town Hall
Bury
Telephone No: 0161 253 5209
Email: m.bridge@bury.gov.uk

Background papers:

List of Background Papers:-
Application form
Representations received

Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning

LICENSING ACT 2003

CONDITIONS ATTACHED TO THE GRANT OF THIS LICENCE

This licence is granted subject to any Mandatory Conditions imposed by the Licensing Act 2003, and conditions volunteered on the application form to be undertaken by the applicant and where necessary, conditions imposed by the Licensing Authority in order to promote the Licensing Objectives.

Mandatory Conditions:

a No supply of alcohol may be made under the Premises Licence at a time when there is no Designated Premises Supervisor (DPS) in respect of the Premises Licence OR at a time when the Designated Premises Supervisor does not hold a Personal Licence or his/her Personal Licence has been suspended.

b Every supply of alcohol under the Premises Licence must be made or authorized by a person who holds a Personal Licence.

c Any Door Security staff employed to carry out a security activity at the premises must be licensed with the Security Industry Authority (SIA).

d. In respect of the exhibition of films as mentioned below:

1 The admission of children to the exhibitions of any film is restricted as follows:

2 Where the film classification body is specified in the licence, unless 3(b) below applies, the admission of children is restricted in accordance with any recommendation of that body.

3 Where:-

(a) the film classification body is not specified in this licence, or

(b) the licensing authority has notified the holder of the licence that this subsection applies to the film in question,

the admission of children is restricted in accordance with any recommendation made by the licensing authority.

4 In relation to the above:

“children” means persons under the age of 18 years; and

“film classification body” means the persons or person designated as the authority under section 4 of the Video Recordings Act 1984.

Mandatory Conditions pursuant to The Licensing Act 2003

Mandatory Licensing Conditions (Amendment) Order 2014

1. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise)

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:

(a) a holographic mark, or

(b) an ultraviolet feature.

4. The responsible person must ensure that:

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:

(i) beer or cider: ½ pint

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml, and

(iii) still wine in a glass: 125 ml

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises, and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Definition:

Responsible person - as defined by section 153 (4) Licensing Act 2003 -

(a) In relation to a licensed premises -

- (i) the holder of a premises licence in relation to a premises
- (ii) the designated premises supervisor (if any) under such a licence
- (iii) any individual aged 18 or over who is authorised for the purposes of this section by such a holder or supervisor.

(b) In relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question.

The Licensing Act 2003 (Mandatory Conditions) Order 2014

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1-

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
- (b) "permitted price" is the price found by applying the formula-

where-

$$P = D + (D \times V)$$

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence-

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Conditions Consistent with the operating schedule

We have CCTV in operation at all times, with cameras over the bar area, on the stairs, one facing the entrance, one upstairs and two external cameras for the entrance and the rear of the property, we have external lighting as well.

We will be members of the PubWatch scheme and attend the meetings.

We will have signs asking the public to leave the premises quietly. The music will not be above an acceptable level.

We will have a Challenge 25 scheme in place where we ask youngsters that look under 25 for their ID. It is illegal to sell alcohol to any person under 18 years old.

Appendix 2

Hi

I wish to object to the extended licensing hours till midnight on this property. It is very near a residential area and the associated noise would be a disturbance.

I have attached a photo of the notice which has not been displayed prominently in the window of the premises and is therefore difficult to read, so I did not see the date by which objections should be raised.

i would be grateful if you would give this matter full consideration from the local residents viewpoint.

Kind regards

