

Minutes of: LICENSING HEARING SUB COMMITTEE

Date of Meeting: 29th January 2025, 1.00pm

Present: Councillor G McGill (in the Chair)
Councillors G Marsden and D Quinn

M. Cunliffe (Democratic Services)
L. Jones (Licensing Unit)
R. Thorpe (Legal Services)

Also in attendance: Mr H Bashir (Manager of the store & attending on behalf of the Applicant)
Mr N Hitchen (Representor)
Ms Stevenson (Representor via audio only)

Public Attendance: The Hearing was held virtually and interested members of the public were provided with a link to access the hearing online via Microsoft Teams or could be telephoned into the meeting via audio only. No other members of the public or press were in virtual attendance other than those listed above.

1 APOLOGIES FOR ABSENCE

Apologies for absence were submitted by M. Bridge (Licensing Unit Manager), C. Smith (Head of Public Protection) B. Thomson (Assistant Director of Operations Strategy) and Councillor I. Rizvi (Chair of Licensing).

2 DECLARATIONS OF INTEREST

There were no declarations of interest made.

3 MINUTES OF THE LAST MEETING

The minutes of the last Licensing Hearing Sub Committee meeting held at 10.00am on the 18th December 2024 was attached to the agenda.

Resolved:- That the minutes of the Licensing Hearing Sub Committee held at 10.00am on the 18th December 2024 be approved as a correct record.

4 APPLICATION FOR A PREMISES LICENCE TO BE GRANTED UNDER THE LICENSING ACT 2003 IN RESPECT OF CHESTERS, 62 BRIDGE STREET, RAMSBOTTOM, BL0 9AG

The Licensing Authority received an application for a Premises Licence to be granted under the Licensing Act 2003 in respect of Chesters, 62 Bridge Street, Ramsbottom, BL0 9AG.

The applicant for the licence is Mr Saad Bashir, 85 Cedar Street, Blackburn, BB1 9TQ.

The Applicant had complied with all the necessary procedural requirements laid down by the Act.

The Deputy Licensing Unit Officer presented the report and 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 Where representations are made and not withdrawn Members are required to determine them

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

The application is for the grant of a Premises Licence under Part 3 of the Licensing Act 2003.

Opening Times:

Sunday to Thursday	14.00 to 01.00
Friday Saturday	14.00 to 02.30

Provision of Late Night Refreshment (Indoors):

Sunday to Thursday	23.00 to 01.00
Friday Saturday	23.00 to 02.30

The conditions contained in the operating schedule submitted by the applicant were contained at Appendix 1 in the agenda packs.

Three representations had been received from interested parties and they had been invited to make their representations at the hearing. These representations were attached at Appendix 2 in the agenda packs. The Deputy Licensing Unit Officer reported that one of the representations had now been withdrawn. This representation was included on page 23 of the agenda pack and Members were advised that this information should now be disregarded.

Members were made aware of the section 182 Guidance issued under the Licensing Act 2003 which stated:-

The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa. However, as set out in chapter 9, licensing committees and officers should consider discussions with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

There are circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.

The Licensing Authority had forwarded the points raised regarding Planning matters to the Planning Service for their consideration.

After hearing the representations made and the evidence presented, Members are obliged to determine the application with a view to promoting the licensing objectives and having regard to the Authority's Licensing Policy and National Guidance.

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.

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.

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.

In making its decision with regard to this application hearing, the steps the Sub-Committee can take are:

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

All licensing determinations should be considered on the individual merits of the application.

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.

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.

The Sub-Committee was asked to determine what steps, as set out above, are appropriate for the promotion of the licensing objectives.

The Deputy Licensing Officer advised Members that there was another take away on Bridge Street with similar hours to those requested in the application.

Mr Bashir addressed the sub committee and informed Members that the takeaway across the road was open until 1.00am. The business planned for customers to come into the premises and leave with their food items as there would be no seating inside and this would avoid loitering. He envisaged that people from out of town would not travel to the business and it was a service for local people.

Mr Bashir explained that two silencers had been installed on the flue extractor to help minimise volume levels and a roofer was coming to add insulation in the loft area to aid with noise reduction. CCTV and fire regulations were in place and he would be willing to do more to help improve any concerns.

Mr Bashir stated that previously Uber delivered food from his business and once he found they were parking on double yellow lines, he had replaced these with his own delivery drivers who park in bays and the side street.

Mr Bashir explained that the bin was used once a day to keep the noise down and the upstairs of the premises was not used as a flat and he would be asking the planning department if this could be utilised for storage purposes.

The Chair reminded those in attendance that the power of this sub committee was to determine licensing activities and not planning matters.

A Member asked about the timeslot between 1.00am- 2.30am and would this period be for footfall customers or home delivery. Mr Bashir said the pubs close around 1.00am and it may be a mix of both in person and home customers at that time.

The Deputy Licensing Officer added quite a lot of pubs and bars in the area have late licenses.

Ms Stevenson, a representor had joined the virtual meeting via the telephone and spoke to air her concerns with noise impacting the adjoining property of the premises. She was also worried about the lack of police presence in the town during the vibrant night time period and there were no public toilets which could attract anti-social behaviour. The late night hours could cause loitering and after living in the area many years she did not think there was a need to open late as whilst some bars had a late licence, they may not be open until that late time.

Mr Hitchen, a representor addressed the sub committee and expressed his views that the extension of hours would cause noise nuisance to the adjoining flat. He felt the original hours on the planning conditions respected the surrounding residents. He had no objections for trading until 11.00pm but the extra time would create cars parking outside, more noise, further smells and cause a public nuisance. As owner of a flat, one of his tenants would probably want to move with an extension of time granted as they worked early morning. Mr Hitchen stated that he did not think the sound installation conditions could be met. He also pointed out that the rear cobbled access was to remain clear for residents but a commercial bin had been left there and it should be located within the curtilage of number 62. In summing up Mr Hitchen felt that residents should be able to enjoy their property being able to sleep properly and have their windows open.

The Deputy Licensing Officer reminded Members that licensing conditions could not overrule the planning conditions in place.

Mr Bashir in summing up stated cars parked on yellow lines were not associated with the business and customers were advised to move their vehicles. He was aware that a new planning application would need to be submitted and he would move the waste bin within the boundary of the premises. He had invested around £3,000 on fan silencers and further installation would be fitted to help ease any concerns on noise issues.

The Sub-Committee then duly retired to consider the application.

The Members of the Panel were advised by the Legal Officer as to their duties under Section 4 of the Licensing Act 2003 to at all times consider the promotion of the Licensing Objectives, these being:

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

The Members were also advised of their duties in carrying out those functions in relation to the relevant provisions of the national guidance and the Council's licensing policy statement.

In addition, Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives together with relevant representations presented by all parties.

Delegated decision

All of the evidence was considered with care, and it was established that having understood the application and equally noting and understanding the representations, the Sub-Committee found there were no causes for concern so far as the promotion of the licensing objectives were concerned.

It was therefore agreed unanimously that the Sub- Committee **grant the application for a Premises Licence in the terms requested** and subject to the following conditions:-

Operating Schedule

General

1. Being mindful of the location of the premises, hours of operations and activities.
2. Complying with all conditions of the premises license.
3. Ensuring appropriate control measures are in place and staff training is up to date and relevant.
4. Considering public nuisance when establishing the design and the layout of the premises.

Prevention of Crime and Disorder

5. Presence of good CCTV cameras inside and outside premises which will actively deter disorder, nuisance and anti-social behavior and crime generally also do id checks on all employees to prevent any illegal worker being employed in licenced premises.

Public Safety

6. Ensuring presence of trained first aider on premises and appropriate first aid kits available on premises, ensuring the safety of people when leaving premises, good communication with local authorities and CCTV installation, fire safety measure is in place.

The Prevention of Public Nuisance

7. We will make sure all windows and door are shut after certain time like after 10pm and no one is allowed to the back garden and we will not play any music in shop.
8. We will not have any bright lighting outside shop and leave quietly after work late at night.

The Protection of Children from Harm

9. we will not have any entertainment on tv to harm children, not allow unaccompanied children after 8pm.

COUNCILLOR G MCGILL
Chair

(Note: The meeting started at 1.00pm and ended at 2.10pm)