

# REPORT FOR DECISION

<b>DECISION OF:</b>	<b>LICENSING HEARINGS PANEL</b>
<b>DATE:</b>	<b>14<sup>TH</sup> JANUARY 2020</b>
<b>SUBJECT:</b>	<b>THIS REPORT RELATES TO AN APPLICATION FOR THE VARIATION OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF DOOTIES, 297 &amp; 299 HOLLINS LANE, BURY</b>
<b>REPORT FROM:</b>	<b>ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)</b>
<b>CONTACT OFFICER:</b>	<b>MR M BRIDGE</b>
<b>TYPE OF DECISION:</b>	<b>COUNCIL</b>
<b>FREEDOM OF INFORMATION/STATUS:</b>	This paper is within the public domain
<b>SUMMARY:</b>	This report relates to an application to vary a Premises Licence under section 34 of the Licensing Act 2003 in respect of Dooties, 297 & 299 Hollins Lane, Bury of which representations have been made.
<b>OPTIONS &amp; RECOMMENDED OPTION</b>	<ul style="list-style-type: none"> <li>• To refuse the application</li> <li>• To grant the application in the terms requested</li> <li>• To grant the application subject to conditions</li> <li>• To amend or modify existing or proposed conditions</li> </ul>
<b>IMPLICATIONS:</b>	
<b>Corporate Aims/Policy Framework:</b>	Do the proposals accord with the Policy Framework? <b>Yes</b> No
<b>Statement by the S151 Officer: Financial Implications and Risk Considerations:</b>	There are no specific issues from the report other than potential costs/risks associated with legal appeals.
<b>Statement by Executive Director of Resources:</b>	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.
<b>Equality/Diversity implications:</b>	Yes <b>No</b>

	(see paragraph below)
<b>Considered by Monitoring Officer:</b>	Yes Under the legislation the Council is required to determine representations. The report is in accordance with the appropriate legislation.
<b>Wards Affected:</b>	Unsworth
<b>Scrutiny Interest:</b>	Overview and Scrutiny Panel

## TRACKING/PROCESS

## DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

### 1.0 INTRODUCTION

- 1.1 The Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations is 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 BACKGROUND

- 2.1 The premises licence holder in respect of these premises is Mr Damian Greenwood, 299 Hollins Lane, Bury, BL9 8BD. Mr Damian Greenwood is also the Designated Premises Supervisor.
- 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 variation of a premises licence. Where representations are made and not withdrawn Members are required to determine them. Representation has been received from interested parties.
- 2.2 Representations must be relevant to the licensing objectives defined within the Act. The objectives are:-
  - a) the prevention of crime and disorder
  - b) public safety
  - c) prevention of public nuisance and
  - d) protection of children from harm

### **3.0 THE APPLICATION**

- 3.1 The application is for a variation to the current Premises Licence under Part 3 of the Licensing Act 2003 for the purpose of incorporation of 297 Hollins Lane, Bury within the existing premises licence at 299 Hollins Lane, Bury. The restaurant bar area is being reduced and moved into the 297 Hollins Lane. This will become the new entrance. The existing restaurant bar will be removed, this space will be used for additional covers.

The current operating schedule for 299 Hollins Lane, Bury shows the following:

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

Monday to Sunday            9.00am to 11.00pm

- b. Playing of Recorded Music (Indoors)

Sunday to Tuesday            9.00am to 10.00pm

Wednesday to Saturday    9.00am to 11.00pm

- c. Performance of Live Music (Indoors)

Friday to Saturday            6.00pm to 10.00pm

- d. Hours the premises are open to the public:

Monday to Sunday            9.00am to 11.00pm

- 3.2 The proposed operating schedule for 297/299 Hollins Lane, Bury is as above. The conditions that are currently attached to the premises licence are attached at appendix 1.

### **4.0 REPRESENTATIONS**

- 4.1 Representations in respect of the application have been received from three interested parties. Each representor will shortly give their reason(s) for their representations in relation to this application which they request the Panel to refuse. The representations are attached at appendix 2.

- 4.2 All the representations were received before the end of the objection period.

### **5.0 SECTION 182 GUIDANCE**

- 5.1 Under the Section 182 Guidance issued under the Licensing Act 2003, the following sections are relevant:-

- 8.62 Many small variations to layout will have no adverse impact on the licensing objectives. However changes to layout should be referred to the full variation process if they could potentially have an adverse impact on the promotion of the licensing objectives, for example by:-

- Increasing the capacity for drinking on the premises;
- Affecting access between the public part of the premises and the rest of the premises or the street or public way, for instance, block emergency exits or routes to emergency exits; or

- Impeding the effective operation of noise reduction measure such as an acoustic lobby.

16.6 As a result of deregulatory changes that have amended the 2003 Act, no licence is required for the following activities:

Live music: no licence permission is required for:

A performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.

Recorded Music: no licence permission is required for:

Any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.

## **6.0 HISTORY OF RECENT COMPLAINTS**

6.1 The Licensing Service have received the following complaint and have taken the following actions:-

3<sup>rd</sup> August 2018 – Complaint received relating to both live and recorded music constantly coming through the party wall between our properties. On Sunday 29<sup>th</sup> July 2018, a private party was held with live music between 9.00pm and 10.50 pm. The complainant indicated that people who live 70 yards away could hear the music from their house. The complainant's son spoke to the proprietor the following day and his answer was I can do this 7 nights a week if I want as I have a licence until 11.00pm. The complainant indicated that there is also a piano which is located next to the party wall which can be heard in both the complainant's bedrooms and even the bathroom which is the furthest point in the house.

18<sup>th</sup> August – The licensing service spoke to the designated premises supervisor whilst undertaking enforcement duties. The noise complaint was discussed, in particular conditions and prevention measures that could be taken.

18<sup>th</sup> January 2019 – The licensing service visited the premises and carried out an external noise check which found that noise was not audible. Officers noted that the premises licence holder had opened next door but the bar remained in the same place.

## **7.0 OBSERVATIONS**

7.1 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.

---

### **List of Background Papers:-**

Application form  
Plan

Representations received

***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](mailto:m.bridge@bury.gov.uk)

---

## Appendix 1

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 premise*
- (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-

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

Where-

- (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**

- The premises are to operate an effective CCTV system which is to be maintained in good working order at all times the premises is open for business. The recording medium (e.g. disks / tapes / hard drive, etc.) and associated images are to be retained and securely stored for a minimum period of 28 days and are to be made available to the police / authorised officers of the Licensing Authority upon request. The premises licence holder or designated premises supervisor is to provide the police with the contact details of at least two members of staff (or other person(s)) who are trained and familiar with the operation of the equipment so that, at the expense of the premises licence holder, they are able to check that the equipment is operating properly and that they are able to provide copies of recorded data upon request and within no more than 24 hours from the time of the request. The premises licence holder or the Designated Premises Supervisor must notify the licensing office or the Police in the event of CCTV breakdown or malfunction as soon as is reasonably practicable and in any event within 24 hours.
- Staff training shall take place on the Licensing Act and Licensing objectives upon commencement of employment and every six months thereafter, a written record of this training is to be maintained and made available to the police and any authorised officer of the Council for inspection on request.
- Customers are to be prevented from leaving the premises and associated outside area with glasses or open bottles. Empty bottles must be placed into locked bins so as to prevent them from being used as weapons.
- Prominent clear and legible notices must be displayed at all exits requesting that customers respect the needs of local residents and to leave the premises and area quietly.
- Music and associated other noise sources (e.g. DJs and amplified voices) shall not be generally audible inside noise sensitive property at any time. The DPS or a member of staff is to carry out noise level checks of the surrounding outside area whenever entertainment is being provided taking action to reduce noise levels where there is a potential for nuisance to be caused.
- All external doors and windows are to be kept closed when live entertainment or recorded music is in progress.
- Management and staff are to use their best endeavours to prevent persons loitering outside the premises and to ensure that persons refused entry or ejected are asked to leave the vicinity of the premises
- At an appropriate time before closing time, announcement should be made reminding customers to leave quietly.

- The premises will operate a "Challenge 25" proof of age policy, and signage to this effect is to be prominently displayed within the premises. Persons who appear to be under the age of 25 must produce for thorough scrutiny by staff, proof of identity/age before being sold/supplied alcohol. Only a passport or photo-card driving licence or a proof of age card bearing the official 'PASS' accreditation hologram should be accepted as proof of age.
- The premises is to maintain a refusals / incident book to record the details of incidents / descriptions of individuals whenever a member of staff has refused to sell alcohol to a person suspected of being under the age of 18 and record the circumstances of any incident. The book must be made available to the police / authorised officers of the Licensing Authority on request.