



Classification	Item No.
Open	

Meeting:	Licensing Hearings Sub-Committee
Meeting date:	6 th October 2022
Title of report:	Application for a Variation to a Premises Licence under the Licensing Act 2003 in respect of Railway and Naturalist Inn, 464 Bury New Road, Prestwich, Manchester, M25 1AX
Report by:	Executive Director (Operations)
Decision Type:	Council
Ward(s) to which report relates	St Mary's

Executive Summary:

This report relates to an application to vary a Premises Licence under section 34 of the Licensing Act 2003 in relation to Railway and Naturalist Inn, 464 Bury New Road, Prestwich, Manchester, M25 1AX. One representation has been received from Greater Manchester Police in their capacity as a responsible authority and nine representations have been received from interested parties.

Recommendation

Options & recommended option

- 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

Key considerations

This is a Council Function that is delegated to the Licensing and Safety Panel by the Council's Constitution.

Community impact / Contribution to the Bury 2030 Strategy

Not applicable

Equality Impact and considerations:

A GM-wide Equality Impact Assessment has been undertaken and a copy is available on request.

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.

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

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
Not applicable	

Consultation:

Not applicable

Legal Implications:

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:

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

Term	Meaning
DPS	Designated Premises Supervisor

Background papers:

Application form
Representations received
Current Premises Licence
Bury Council's Licensing Policy
Guidance issued under Section 182 of the Licensing Act 2003
Licensing Act (Hearings) Regulations 2005

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 Craft Union Pub Company, 3 Monkspath Hall Road, Shirley, Solihull, West Midlands, B90 4SJ. Mrs Tracy Mundy, 33 Green Walks, Prestwich, M25 1DS is the Designated Premises Supervisor (DPS) at these premises.
- 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 and Off the Premises.

Monday to Sunday	10.00am to 00.00am
New Years Eve	10.00am to 00.00am
Christmas Eve, Christmas Day	
Boxing Day and New Years Day	10.00am to 01.00am
Any preceding Friday, Saturday, Sunday and Bank Holiday	
Monday	10.00am to 01.00am

Provision of Live Music (Indoors)

Monday to Sunday	10.00am to 00.00am
New Years Eve	10.00am to 00.00am
Christmas Eve, Christmas Day	
Boxing Day and New Years Day	10.00am to 01.00am
Any preceding Friday, Saturday, Sunday and Bank Holiday	
Monday	10.00am to 01.00am

Provision of Recorded Music (Indoors)

Monday to Sunday	10.00am to 00.00am
New Years Eve	10.00am to 00.00am
Christmas Eve, Christmas Day	
Boxing Day and New Years Day	10.00am to 01.00am

Any preceding Friday, Saturday,
Sunday and Bank Holiday 10.00am to 01.00am
Monday 10.00am to 01.00am

Entertainment of a similar description falling within E,F,G (Indoors)

Monday to Sunday 10.00am to 00.00am
New Years Eve 10.00am to 00.00am
Christmas Eve, Christmas Day
Boxing Day and New Years Day 10.00am to 01.00am
Any preceding Friday, Saturday,
Sunday and Bank Holiday
Monday 10.00am to 01.00am

Hours open to the Public

Monday to Sunday 10.00am to 00.30am
Christmas Eve, Christmas Day
Boxing Day and New Year's Day 10.00am to 01.30am
Any proceeding Friday, Saturday,
Sunday and Bank Holiday 10.00am to 01.30am
Monday

3.2 Proposed Variation – Opening Hours

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

Friday and Saturday 10.00am to 02.00am
New Years Eve 10.00am to 01.30am
Christmas Eve, Christmas Day
Boxing Day and New Years Day 10.00am to 02.00am
Any preceding Friday, Saturday,
Sunday and Bank Holiday 10.00am to 02.00am
Monday

Provision of Recorded Music (Indoors)

Friday and Saturday 10.00am to 02.00am
New Years Eve 10.00am to 01.00am
Christmas Eve, Christmas Day
Boxing Day and New Years Day 10.00am to 02.00am
Any preceding Friday, Saturday,
Sunday and Bank Holiday 10.00am to 02.00am
Monday

Hours open to the Public

Friday and Saturday 10.00am to 02.30am
New Years Eve 10.00am to 01.00am
Christmas Eve, Christmas Day
Boxing Day and New Years Day 10.00am to 02.30am
Any preceding Friday, Saturday,
Sunday and Bank Holiday 10.00am to 02.30am
Monday

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 REPRESENTATIONS FROM GREATER MANCHESTER POLICE

4.1 Greater Manchester Police have made representations in their capacity as a Responsible Authority. They have requested conditions contained at Appendix 1.

5.0 REPRESENTATIONS FROM INTERESTED PARTIES

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

- Excessive Noise
- Anti-social Behaviour including violence
- Exacerbate an existing frustrating situation.
- Criminal damage
- Creating licensing and Police issues – negative impact on other emergency services
- People loitering
- Smoking Shelter
- Taxi Rank noise
- Residents being able to sleep

5.2 The representations are attached at Appendix 2.

6.0 THE SECRETARY OF STATES GUIDANCE TO THE LICENSING ACT 2003

6.1 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.

6.2 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.

6.3 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.

7.0 CONCLUSION

- 7.1 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.
- 7.2 In reaching the decision, regard must be had to relevant provisions of the national guidance and the Council’s licensing policy statement.
- 7.3 The Sub-Committee must consider what steps are appropriate for the promotion of the licensing objectives.
- 7.4 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
- 7.5 All licensing determinations should be considered on the individual merits of the application.
- 7.6 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.
- 7.7 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.
- 7.8 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.

Appendix 1

Bury Metropolitan Borough Council

The Licensing Act 2003

Responsible Authority Representation Form

Section 1 - Application Details	
<p>We object to the following Application:</p> <p>Railway and Naturalist</p> <p>464 Bury New Road,</p> <p>Prestwich</p> <p>M25 1AX</p>	
<p>Type of application.</p> <p>Application to vary a premises license.</p>	
Application Number (if known):	

Section 2 – Responsible Authority's Details	
<p>Responsible Authority's Details:</p> <p>Please tick appropriate box:</p>	
<input checked="" type="checkbox"/>	Police
<input type="checkbox"/>	Fire Authority
<input type="checkbox"/>	Planning Authority
<input type="checkbox"/>	Health and Safety
<input type="checkbox"/>	Environmental Health Service
<input type="checkbox"/>	Child Protection
<input type="checkbox"/>	Weights and Measures

	Licensing Authority
	Immigration
	Public Health Department
Full name:	Peter Eccleston PC 15913
Job Title:	Bury District Licensing Officer
Tele number:	0161 856 2256 / 07774219071
Email:	peter.eccleston@gmp.police.uk
Address:	Bury Police Station Dunster Road Bury BL9 0RD

Section 3 – Representations

	We object to the application being granted at all
X	We object to the application being granted in its current form*
<p>*If you choose this option remember to tell us in section 3B what changes you would like to see.</p>	

You need to complete the boxes below as fully as possible. If you do not then the Licensing Sub-Committee may not understand why you have made a representation (objection).

Please attach supporting documents/further pages as necessary. Please number all extra pages and add the applicant's name and your name to each page.

Section 3A – The Objectives

To prevent crime and disorder	<p>Please state your reasons:</p> <p>Within the application there is no information whatsoever on how the licensing objectives will be promoted. The extension of the licensed hours is likely to increase incidents of crime and disorder.</p>
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	The application only states as per the existing premises license however there are no conditions on the premises license to promote this objective.
Public safety	Please state your reasons:
To prevent public nuisance	<i>Please state your reasons:</i>
The protection of children from harm	<p>Please state your reasons:</p> <p>Within the application there is no information whatsoever on how the licensing objectives will be promoted.</p> <p>The application only states as per the existing premises license however there are no conditions on the premises license to promote this objective.</p>

Section 3B – Suggestions/Further information

The Prevention of Crime and Disorder

- The premises will employ SIA registered door security from 7pm until close each Friday, Saturday and each Sunday of Bank holiday weekends as well as any key dates such as the last Friday before Christmas day, Boxing day, New Year's Eve and any other key dates throughout the year inclusive of major sporting events.
- The premises will have an effective CCTV system that will monitor all public areas (save the toilets) of the premises, including any outside areas used for the consumption of alcohol.
- CCTV footage will be maintained for a minimum of 28 days and will be made available to responsible authorities on request
- The DPS will check the CCTV on a weekly basis and will notify the police licensing officer of any faults ASAP or in any case within 24 hours of the fault being identified.
- The premises will keep and regularly maintain an incident and refusals register.
- The DPS or their deputy will ensure all incidents and refusals are recorded in the register ASAP or in any case before the end of business on the date of the incident or refusal.
- The incident and refusals register will be made available to responsible authorities on request.

The Protection of Children from Harm

- The premises will adopt a challenge 25 age verification scheme. Any person appearing to be under the age of 25 will be required to provide photographic ID to prove they are 18 or over. Any person unable to provide the required ID will be refused service.
- The only acceptable forms of ID will be a Passport, a UK driving licence or any photographic ID bearing the holographic PASS logo.
- Any person under the age of 18 years must be accompanied by an appropriate adult, responsible for the health and wellbeing of the young person.
- No persons under 18 years will not be permitted on the premises after 8pm

Signed P. Eccleston PC 15913

dated 08/09/22

N.B if you do make a representation you will be expected to attend the Licensing Sub-Committee hearing and any subsequent appeal proceedings.

Appendix 2

Objector 1

I am writing to object to the changed licensing and opening hours (Friday and Saturday: Sale of alcohol until 0200, open until 0230) for the Railway and Naturalist Pub in Prestwich. There are many families in this area (including my own) whose health, safety and work will be affected by the sound and behaviour caused by such late business involving sale and consumption of alcohol. This is already becoming a problem for the neighbourhood, with excessive noise and aggressive behaviour from customers leaving pubs and bars in the village affecting the well-being of local residents, as well as the disturbance caused by the loud music during opening hours. Allowing the R&N to run so late would exacerbate an already frustrating situation.

Objector 2

I am writing to object to the changed hours (Friday and Saturday: Sale of alcohol until 0200, open until 0230) for the Railway and Naturalist Pub in Prestwich. There are many families in this area (including mine) who will be affected by the sound caused by such a late business. This is already becoming a problem for the neighbourhood, and allowing the R&N to run so late would exacerbate an already frustrating situation.

Objector 3

I would like to object to the extended licensing hours for the Railway and Naturalist Inn. As a lot of noise is already created late at night by this pub, as they have a beer garden and people linger after the closing time, this would mean noise would die down for Radius residents at around 2.30am. This is especially a problem on Saturday evening. As we would be able to get to sleep at 2.30 am only to be woken by church bells at 9, giving us at most 6 hours sleep on a weekend. Which I'm sure you'll agree is pretty unfair!

So either the pub closes earlier or the church stops ringing it's bells. Since I can't do anything about the bells, please do not grant this license.

Objector 4

Dear Sir/Madam

I have noticed that the owners of the above public house have applied to vary their licensing hours to serve alcohol and provide recorded music until 02:00hrs on Friday and Saturday nights.

As a local resident, I would like to register my objection to this. Living in the apartments above the Longfield Centre, the vast majority of noise and anti-social behaviour on weekend nights comes from the customers of the Railway & Naturalist with its current opening hours. I am often already kept awake or woken up by people leaving this pub after closing time on Friday and Saturday nights. I believe extending these hours would only make matters worse for residents in the local area.

I trust that this is enough to register my objection, but if you need any further information, please do let me know.

Objector 5

Dear Sir / Madam

I must protest in the strongest possible terms regarding the granting of a late licence at the Railway and Naturalist , on Bury new road in Prestwich .

I live in Prestwich village and it is bad enough now, with gangs of drunks shouting, screaming, and fighting until the early hours of the morning.

This is an incredibly bad idea, just look at what happened to the Parkside, on Bury old road, when it was granted a late licence, it was plagued with violence and anti social behavior, including, stabbings, fighting and damage to property. with gangs traveling here from Salford and Radcliffe

Our emergency services are already under immense pressure, do you really want to add to that by granting this licence ?

Objector 6

I find it hard to believe that licensing are even considering this application until 2.30 am on Fridays and Saturdays....the noise that comes from this pub even with the current hours is quite bad....I live in the radius apartments opposite along with many families whose enjoyment of a normal peaceful life and getting enough sleep would be severely jeopardised.

On the one occasion in the past when they had extended hours...licensing had to attend the pub because of complaints of noise and they rescinded the license with immediate effect....this should be in your records.

It is a very noisy pub with an outside area....the clientele are extremely noisy along with loud music. If one needs to complain about the noise level.....even around midnight.....no-one answers the phone.....so you have to sit it out...until the last reveller leaves by way of even more noise at the opposite taxi rank.

Please consider the very adverse effect this will have on the hundreds of local residents.

Objector 7

I have received objections to the above application to extend the licensing hours for the above premises.

I believe it is right for councillors to try and support local businesses particularly in the difficult trading conditions which we find ourselves however that should not unduly impact the rest of the community.

I have received representations objecting to this application from residents and wish to represent their concerns, particularly the following:

1. As there are residential properties proximate to the premises the potential for disturbance in the early hours of the morning is not acceptable.
2. There is a risk of anti-social behaviour which at such time would place an unreasonable burden on policing.

I have received the following from a resident, who has asked for the submission to be anonymous. Please forward to the relevant officer:

I am writing to formally register my objection to an application by the Railway & naturalist Inn, 464 Bury New Road, Prestwich to vary the licensable hours for the sale of alcohol and recorded music to 0200 on a Friday and Saturday only.

2. To vary the opening hours on a Friday and Saturday only to 0230.

The Premises in question are approx 25/30 meters from 150 apartments at Radius Prestwich and a closing time of 02:30 am will significantly contribute to the noise that residents currently have to face with patrons of the aforementioned. There is already significant noise at weekends when patrons leave to wait for taxis at the rank adjacent to the pub and Radius apartments.

The landlord/staff of the railway make little effort to minimise noise and there is always a constant stream of noise. The smoking area at the pub is covered (which I'm sure is against regulations) and therefore contributes to noise. If extended opening hours are approved this will exacerbate an already unpleasant situation for residents (smoking outside until 02:00 and leaving at 02:30 - 03:00).

This area has a mixture of residential and commercial premises and consideration should be given to residents as this is not a city centre location and therefore unsuitable for extended hours (02:30).

A recent application from Prestwich social for opening hours until 01:30 on a Friday and Saturday **was granted but amended to 00:30** following representation from radius residents.

My concern is that granting extended opening hours until 02:30 will create precedence and other establishments will follow suit and ask for extended opening hours.

Objector 8

RE:-The application for late license at the Railway and Naturalist public house in Prestwich.

The extension of the license needs to be declined this is due to the centre of Prestwich is a residential area which, suffers greatly due to the anti-social behaviours coming from local bars. The behaviours displayed have a negative impact on the quality of life for resident impacting on vehicle damage, residents sleep and wellbeing, fighting and aggressive behaviours which, cause residents to be fearful of these excessively intoxicated individuals and fearful for their property.

Extending the license will only cause more of these behaviours to plague residents. They will also make the staff and management at the premises more vulnerable when having to refuse service to groups or individuals who are too drunk, creating licensing and police issues, which will negatively impact on other emergency services such as ambulances being called to fights, alongside local businesses being vandalised and the pub itself being with threats to staff, door staff and the management. Please see sense and decline the poorly conceived application.

Please do not hesitate to contact me via email with any queries or questions relating to this application.

Kind regards,