

Classification	Item No.
Open	

Meeting:	Licensing Hearings Sub-Committee
Meeting date:	15 November 2022
Title of report:	Application for a Variation to a Premises Licence under the Licensing Act 2003 in respect of Life Baby Scanning and Gifts, 109 Parr Lane, Unsworth, BL9 8JN
Report by:	Executive Director (Operations)
Decision Type:	Council
Ward(s) to which report relates	Besses

Executive Summary:

This report relates to an application to vary a Premises Licence under section 34 of the Licensing Act 2003 in relation to Life Baby Scanning and Gifts, 109 Parr Lane, Unsworth, BL9 8JN. Four representations have been received which consist of one from Environmental Health in their capacity as a responsible authority and three 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:

M Bridge
Licensing Unit Manager
3 Knowsley Place
Duke Street
Bury
BL9 0EJ Tel: 0161 253 5209 Email: m.bridge@bury.gov.uk

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 Mumson Limited, Unit 22, Carrioca Business Park, 2 Sawley Road Manchester, M40 8BB, Miss Anna Theresa Morrison 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 Off the Premises.

Monday to Sunday 09.00 to 21.00

Hours open to the Public

Monday to Sunday 09.00 to 21.00

3.2 Proposed Variation – Opening Hours

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

Monday to Thursday	09.00 to 22.00
Friday to Sunday	09.00 to 23.45
Christmas Eve	23.00 to 00.30
New Years Eve	23.00 to 02.00
Easter Holidays	23.00 to 00.30
Bank Holiday Weekends	23.00 to 00.30

Performance of Live Music (Indoors)

Friday to Sunday	23.00 to 23.45
Christmas Eve	23.00 to 00.30
New Years Eve	23.00 to 02.00
Easter Holidays	23.00 to 00.30
Bank Holiday Weekends	23.00 to 00.30

Provision of Recorded Music (Indoors)

Friday to Sunday	23.00 to 23.45
------------------	----------------

Christmas Eve	23.00 to 00.30
New Years Eve	23.00 to 02.00
Easter Holidays	23.00 to 00.30
Bank Holiday Weekends	23.00 to 00.30

Provision of Late night Refreshment

Friday to Sunday	23.00 to 23.45
Christmas Eve	23.00 to 00.30
New Years Eve	23.00 to 02.00
Easter Holidays	23.00 to 00.30
Bank Holiday Weekends	23.00 to 00.30

Hours open to the Public

Monday to Thursday	09.00 to 22.00
Friday to Sunday	09.00 to 23.45
Christmas Eve	23.00 to 00.30
New Years Eve	23.00 to 02.00
Easter Holidays	23.00 to 00.30
Bank Holiday Weekends	23.00 to 00.30

- 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 ENVIRONMENTAL HEALTH

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

- Parking
- Opening hours unacceptable and a concern
- Live Entertainment
- Anti-social Behaviour
- Need
- Loitering
- Noise from people leaving
- Taxis beeping horns.

- 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.

Bury Metropolitan Borough Council

The Licensing Act 2003

Responsible Authority Representation Form

Section 1 - Application Details

We object to the following Application:

The premises is changing from online and in store sale of alcohol to a coffee shop/bistro. We want our main focus to be day time and early evening. Customers will be able to sit in and order food with soft, hot or alcoholic drinks.

Provision of Live Music (indoors only):

Friday to Sunday – 23:00 till 23:45

Christmas Eve, Easter Holidays and Bank Holiday weekends – 23:00 till 00:30

New Years Eve – 23:00 till 02:00

Provision of Recorded Music (indoors only):

Friday to Sunday – 23:00 till 23:45

Christmas Eve, Easter Holidays and Bank Holiday weekends – 23:00 till 00:30

New Years Eve – 23:00 till 02:00

Type of application.

Variation of Premises Licence

Application Number (if known):

Section 2 – Responsible Authority's Details

Responsible Authority's Details:

Please tick appropriate box:

<input type="checkbox"/>	Police
<input type="checkbox"/>	Fire Authority
<input type="checkbox"/>	Planning Authority
<input type="checkbox"/>	Health and Safety
<input checked="" type="checkbox"/>	Environmental Health Service
<input type="checkbox"/>	Child Protection
<input type="checkbox"/>	Weights and Measures
<input type="checkbox"/>	Licensing Authority
<input type="checkbox"/>	Immigration
<input type="checkbox"/>	Public Health Department

Full name:	Michael Jay Neatis
Job Title:	Senior Environmental Health Officer
Tele number:	0-161 253 5519
Email:	m.neatis@bury.gov.uk

Address:

3 Knowsley Place

Bury

Lancashire

Section 3 – Representations

<input type="checkbox"/>	We object to the application being granted at all
<input checked="" type="checkbox"/>	We object to the application being granted in its current form*

*If you choose this option remember to tell us in section 3B what changes you would like to see.

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

Please state your reasons:

Public safety

Please state your reasons:

To prevent
public
nuisance

Please state your reasons:

There are residential properties located immediately above the applicant's premises, and there is a significant likelihood that the occupants of these residencies will be able to hear the music from downstairs. This will potentially lead to noise nuisance complaints being made.

The protection of children from harm	<i>Please state your reasons:</i>

Section 3B – Suggestions/Further information

No live music permitted.

Provision of recorded music (indoor only) to finish at 2100 hrs.

Signed: ...Michael Neatis..... Dated: 06/10/2022

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

Thank you for your quick response.

I would like to make an objection on the grounds of Public Nuisance.

This is a mainly residential neighbourhood.

- There is already a pub about 5 doors away from these premises, which already attracts disorderly behaviour and causes a nuisance, mainly to people living on Pole Lane, or in the flats directly opposite the pub.
- There are currently 2 schools (soon to be 3) and the students from Unsworth Academy cause problems for the flat residents, with anti-social behaviour, running through the car park and blocking the road and pavement access. This will increase, as the bistro will provide them with an additional reason to loiter.
- There was a café where Miami Pizza is now, and it failed, no small part due to the lack of parking in the area.
- There was also a café on Sunnybank Road, which also closed due to lack of patronage.
- There are terrible problems already with the parking at Unsworth Pole. There are double yellow lines outside Berrys, which no one adheres to. The street parking is limited to a maximum of 1 hour. There is a car park behind the Bay Horse which is Pay & Display which no one ever uses. The only other parking is our private car park, which there is a very real possibility that people will try to park there. It is already difficult to drive up Pole Lane past the shops due to cars being parked on both sides of the road.

I am happy to discuss my objection with you further.

Many Thanks

Objector 2

Dear Sirs

I refer to the above application for a change of premises and an application to sell alcohol and play music . I also understand that opening hours on the weekend will be until 2.00 a.m

I am a local resident living very close to the proposed premises.

I object for the following reasons

1) There are already 2 licensed premises in the vicinity which are both licensed for music and have there own car parking facilities.

The new premises has no parking facilities and therefore patrons will be using the nearby side roads creating more traffic for residents on nearby Pole Lane and around Unsworth Pole.

2) It will also create more noise. Shouting from patrons leaving and taxis beeping their horns as they do so now outside the Bay Horse.

Objector 3

i wish to object to these changes being made for the following reasons

Parking....

there is NO parking availability outside or nearby apart from the Bay Horse car park which the brewery charge for. I live at 110 Parr Lane directly opposite 109. I am in a end property with School Close at the side of my house. Cars frequently park there day and night and is used by other residents as they cannot park outside their own homes due to yellow lines. I feel School Close will end up as a parking zone which will prove dangerous due to it being quite narrow and already having yellow lines on one side. The area in front of , and around the Pole is always very busy with parking

There is a primary school at the top of Sunnybank Road and also an entrance on School Close hence it is Very busy at the roundabout on Parr Laneparents picking up their children and hence parking is already a Big issue.

I have been informed the present owners wish to change their existing premises From Baby Scanning to a tea room however live entertainment and their opening hours especially are not acceptable.....shorter hours and parking facilities are needed .

Parr Lane is already congested and speeding is a big issue .

The late opening hours are of concern and there is already a Pub in the immediate area .

Yours sincerely