

Classification	Item No.
Open / Closed	

Meeting:	Licensing Hearings Sub-Committee
Meeting date:	5 December 2023
Title of report:	Application for a Premises Licence to be granted under the Licensing Act 2003 in respect of ICON, 511 Bury New Road, Prestwich, M25 3AJ
Report by:	Executive Director (Operations)
Decision Type:	Council
Ward(s) to which report relates	St. Marys

Executive Summary:

This report relates to an application for a Premises Licence to be granted under the Licensing Act 2003 in respect of ICON, 511 Bury New Road, Prestwich, M25 3AJ

Recommendation(s)

- 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

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 is Icons International Limited, C/o Atr Accountancy & Bookkeeping Ltd, Unit 25 Europa House, Barcroft Street, Bury, BL9 5BT and the proposed Designated Premises Supervisor (DPS), in respect of the above premises, is Mr Roberto Davide Polacco, 20 Leyton Drive, Bury, BL9 9SL.
- 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 Where representations are made and not withdrawn Members are required to determine them.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 grant of a Premises Licence under Part 3 of the Licensing Act 2003 is attached at Appendix 1:

Since the submission of the application for a premises licence by the applicant, the hours of operation have been amended due to the applicant being contacted by Greater Manchester Police. Mediation took place and the applicant has agreed to the following hours:

Opening Times:

Monday to Thursday – 11:00 till 00:00

Friday and Saturday – 11:00 till 01:30

Sunday – 11:00 till 23:00

Christmas Eve – 11:00 till 01:00

New Years Eve – 11:00 till 03:00

Christmas Day – 11:00 till 19:00

New Years Day – 11:00 till 23:00

Live Music (indoors only):

Monday to Thursday – 19:00 till 00:00

Friday and Saturday – 19:00 till 01:30

Sunday – 19:00 till 23:00
Christmas Eve – 11:00 till 01:00
New Years Eve – 11:00 till 03:00
Christmas Day – 11:00 till 19:00
New Years Day – 11:00 till 23:00

Recorded Music (both indoors and outdoors):

Monday to Thursday – 11:00 till 00:00
Friday and Saturday – 11:00 till 01:30
Sunday – 11:00 till 23:00

Supply of Alcohol (on the premises only):

Monday to Thursday – 11:00 till 23:30
Friday and Saturday – 11:00 till 01:00
Sunday – 11:00 till 10:30
Christmas Eve – 11:00 till 00:30
New Years Eve – 11:00 till 02:30
Christmas Day – 11:00 till 18:30
New Years Day – 11:00 till 22:30

It should be noted that the timings on this application are only applicable after 11.00pm due to 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.

The conditions contained in the operating schedule submitted by the applicant are contained at Appendix 2.

4.0 REPRESENTATIONS FROM AN INTERESTED PARTY

4.1 Two relevant representations, from interested parties have been made against this application. A summary of this is detailed below:-

- Anti-Social Behaviour
- Noise from Indoor/Outdoor music
- Residential area
- Patrons leaving
- Two other venues in close proximity

4.2 These representations are attached at Appendix 3.

6.0 OBSERVATIONS

6.1 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.

7.0 THE SECRETARY OF STATES GUIDANCE TO THE LICENSING ACT 2003

- 7.1 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.
- 7.2 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.
- 7.3 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.

8.0 CONCLUSION

- 8.1 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.
- 8.2 In reaching the decision, regard must be had to relevant provisions of the national guidance and the Council's licensing policy statement.
- 8.3 The Sub-Committee must consider what steps are appropriate for the promotion of the licensing objectives.
- 8.4 In making its decision with regard to this variation 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

- 8.5 All licensing determinations should be considered on the individual merits of the application.
- 8.6 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.
- 8.7 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.
- 8.8 The Sub-Committee is asked to determine what steps, as set out in 8.4 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:

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Background papers:

List of Background Papers:-
Application form
Representation received

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

Term	Meaning

Appendix One
Grant of Premises Licence for
ICON, 511 Bury New Road,
Prestwich

Appendix 2

Operating Schedule submitted by the applicant

- The premise is 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 type of system and the number/positioning of cameras is to be agreed in liaison with the police. The location of cameras will be recorded on the plan attached to the licence. The recording medium (e.g. discs/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 12 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 24hrs.
- The Premises License Holder or DPS is to conduct their own risk assessment with regards to the employment of SIA registered door supervisors taking into account key dates and events throughout the year such as the last Friday before Christmas Day (mad Friday), New Years Eve, Good Friday and Sundays of Bank Holidays. A minimum of two door supervisors will be employed at any one time.
- A log must be maintained at the premises showing the full name, date of birth and SIA badge number of the Door Security Staff on duty, the time when they started and ended their shift and the details of any incidents that take place to include incidents when a member of the public is refused entry to the premises. The log is to be made available to the Police, to SIA inspectors & to Authorised Officers of the Licensing Authority on request.
- Staff training shall take place on the Licensing Act and Licensing objectives every six months and a written record of this training to be maintained and made available to the police and any authorised officer of the Council for inspection on request.
- No drink shall be removed from the premises in an unsealed container.
- The Premises License Holder or DPS will conduct their own risk assessment with regards to the consumption of alcohol from glass receptacles / bottles in outside areas designated for the consumption of alcohol, considering key dates and events throughout the year and decant all alcohol into plastic receptacles where required.

- An incident log (which may be electronically recorded) shall be kept at the premises for at least six months, and made available on request to the Police or an authorised officer of the licensing authority, which will record the following incidents including pertinent details:
 - all crimes reported to the venue, or by the venue to the Police
 - all ejections of patrons
 - any incidents of disorder
 - any faults in the CCTV system
 - any visit by a relevant authority or emergency service
- Customers are to be prevented from leaving the premises with glasses or open bottles.
- Empty bottles must be placed into locked bins 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.
- The beer garden / outside area is not to be used for licensable activities or for the consumption of alcohol after 22:00 hours daily.
- 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.
- The premises will operate a "Challenge 25" proof of age policy and signage 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, 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 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. The book

must be made available to the police/authorised officers of the Licensing Authority on request.

- That the following alcoholic drinks be kept behind the counter or in a place where customers do not have direct access to these products without the assistance of a member of staff, namely:
 - i All spirits, flavoured spirits, alco pops (i.e. spirit based drinks mixed with soft drink/flavoured juice etc) which will include and not be limited to products such as "Bacardi Breezers" and similar products).
 - ii Cider
 - iii Lager
- No person under the age of 18 shall be permitted access to the premises when entertainment of an adult nature is taking place.
- No person under the age of 18yrs shall be permitted to remain on the premises after 20:00 hours

Appendix 3

Representations from Interested Parties

Representation 1

Hi I would like to object to the proposed outdoor music times at the new opening of Icons, 511 Bury New Road, Prestwich, Manchester M25 3AJ. I own a flat a few doors down (495a Bury New Rd, M25 1AD) and I will be able to hear not only the music but as this is a party style venue with lots of alcohol involved there will be raucous activity singing along to the music. The entrance to my flat is via a yard which is literally across the side road near Icons. It is very unfair as there are other homes in the vicinity. The music should be contained within the premises and give neighbours right to live in peace. I believe restaurants etc require a sound test and soundproofing to make sure they do not disturb residents and this is impossible if the music is outside and can't be contained within the premises.

Please do the right thing and not allow music after a certain hour..people have to work and will be kept awake with the noise.

Representation 2

First Email

Dear sir/madam

I write with regards to the above premises and proposed licence for alcohol, recorded and live music.

I would like to object to weekend licensing until 01:30. This is not a city centre venue and a proposed closing time of 01:30 not only affects neighbours on Bury New Road and surrounding streets but sets a precedent that other bars could be keen to adopt.

Licensing has failed residents of Radius and Highfield Road when granting permission to Maccas Bar and Bar 5 amongst others and consideration should be given to private households when making a decision.

Second Email

In that case, I wish to make representation on the grounds that a 01:30 closing time at weekends could constitute a public nuisance with excessive noise from patrons leaving the premises and queuing for taxis etc.