

Minutes of: LICENSING HEARING SUB COMMITTEE

Date of Meeting: 5th December 2023

Present: Councillor G McGill (in the Chair)
Councillors G Marsden and M Walsh

M. Bridge (Licensing Unit Manager)
M. Cunliffe (Democratic Services)
O. Osinuga (Legal Services)

Also in attendance: R Polacco (Proposed DPS)
P Strong (Applicant)
P Wheeldon (Applicant)
I Oldman- Bury Times (Press)

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 members of the public were in virtual attendance.

1 APOLOGIES FOR ABSENCE

Apologies for absence were submitted from B Thomson- Head of Public Protection. No representors were in attendance.

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 15th November 2023 were attached to the agenda.

Resolved:- That the minutes of the Licensing Hearing Sub Committee held at 10.00am on the 15th November 2023 be approved as a correct record.

4 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

The Licensing Authority received 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.

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.

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

The Licensing Unit Manager 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 Where representations are made and not withdrawn Members are required to determine them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 which was attached at Appendix 1 in the agenda packs.

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 had 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 was noted that the timings on the application were 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 were contained at Appendix 2 in the agenda packs.

Two relevant representations from an interested parties had 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

The representations were attached at Appendix 3 in the agenda packs.

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 is asked to determine what steps, as set out above, are appropriate for the promotion of the licensing objectives.

The Licensing Unit Manager provided Members with some background information that two temporary event notices had been submitted for the premises with one having taken place already. The other TEN for later in December would not be required if the application was granted.

An internal plan showing the layout of the venue had been circulated to Members prior to the hearing.

Mr Strong and Mr Wheeldon addressed the sub committee and told Members they were local residents of Prestwich and plans for an outside decking area would be delayed until the summer. Children would be allowed at the venue and it would offer a different experience to what was currently on offer in the area. Door staff would be experienced making people welcome and noise levels would be monitored. The building was derelict and a significant financial investment had been spent to provide a good standard of venue for the Prestwich area.

Communication would be undertaken with other bars in the area and audio level monitors had been installed inside the building alongside notices asking patrons to be respectful when they leave the premises. The police and licensing service had been given a guided tour of the venue and the type of music acts being provided were aimed at the older market. The stage area had also been sound proofed to reduce external noise.

Mr Polacco, the proposed DPS added he had undertaken the role for around 40 years and all aspects of the venue would be managed including when customers leave and managing sound levels with the ability to lower the volume if required.

Mr Wheeldon added that walkie talkies had been purchased for door staff and these would also be provided for another close by bar to aid communications.

The Licensing Unit Manager questioned who decides the sound levels and was this advised by environmental health. It was stated that sound engineers had installed equipment to not exceed the required levels and the planning department had been sent a noise level assessment plan.

The Licensing Unit Manager informed Members that there was no Pubwatch scheme in operation in Prestwich and the applicants stated they were happy to work with other bar owners in the area.

The Licensing Unit Manager enquired about only two door staff being on duty and the applicant explained that they would be in communication via radio and the front door to the venue could be locked of both were required inside the building.

The Licensing Unit Manager reminded Members that there is a review process that can be triggered if the licensing objectives are not met to address any concerns from different organisations and the general public.

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:

- a) the Council's published Statement of Licensing Policy
- b) the Guidance issued by the Secretary of State as contained in section 182 of the Licensing Act 2003, which was updated in December 2022.

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

Following the adjournment to make the decision, the applicant was not available virtually to be present when Members returned to announce their decision. The Licensing Unit Manager would contact the applicant after the meeting to inform them of the outcome.

All of the evidence was considered with care, and it was established that having understood the application and equally noting and understanding the representations and assurances made by the applicant and in view of the agreement reached between the applicant and the Responsible Authority, 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**, subject to the following conditions:-

Operating Schedule

- 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

COUNCILLOR G MCGILL
Chair

(Note: The meeting started at 10.00am and ended at 10.48am)