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<b>Classification</b>	<b>Item No.</b>
<b>Open / Closed</b>	

<b>Meeting:</b>	Licensing Hearings Sub-Committee
<b>Meeting date:</b>	13 March 2024
<b>Title of report:</b>	Application for a Premises Licence to be granted under the Licensing Act 2003 in respect of Rock News, 141 The Rock, Bury, BL9 0ND
<b>Report by:</b>	Executive Director (Operations)
<b>Decision Type:</b>	Council
<b>Ward(s) to which report relates</b>	East

### **Executive Summary:**

This report relates to an application for a Premises Licence to be granted under the Licensing Act 2003 in respect of Rock News, 141 The Rock, Bury, BL9 0ND.

### **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.

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## **2.0 INTRODUCTION**

- 2.1 The applicant for the licence is The Rock News Limited, 141 The Rock, Bury, BL9 0ND and the proposed Designated Premises Supervisor (DPS), in respect of the above premises, is Mr Ishfaq Hussain, 121 Ormerod Street, Accrington, BB5 0QQ.
- 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 Where representations are made and not withdrawn Members are required to determine them.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:

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 Saturday	11:00 till 23.00
Sunday	12:00 till 21:00

### **Supply of Alcohol (off the premises only):**

Monday to Saturday	11:00 till 23.00
Sunday	12:00 till 21:00

The conditions contained in the operating schedule submitted by the applicant are contained at Appendix 1.

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#### **4.0 REPRESENTATIONS FROM A RESPONSIBLE AUTHORITY**

4.1 The Licensing Authority in its capacity as a Responsible Authorities have made representations been made against this application. The Licensing Authority will make their representations at the hearing.

4.2 This representation is attached at Appendix 2.

#### **5.0 REPRESENTATIONS FROM A RESPONSIBLE AUTHORITY**

5.1 Trading Standards Service in its capacity as a Responsible Authorities have made representations been made against this application. The trading Standards Service will make their representations at the hearing.

5.2 This representation is attached at Appendix 3.

#### **6.0 REPRESENTATIONS FROM A RESPONSIBLE AUTHORITY**

6.1 Greater Manchester Police in its capacity as a Responsible Authorities have made representations been made against this application. Greater Manchester Police will make their representations at the hearing.

6.2 This representation is attached at Appendix 4.

#### **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.

#### **8.0 THE SECRETARY OF STATES GUIDANCE TO THE LICENSING ACT 2003**

8.1 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.

8.2 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

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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.

8.3 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.

## **9.0 CONCLUSION**

9.1 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.

9.2 In reaching the decision, regard must be had to relevant provisions of the national guidance and the Council's licensing policy statement.

9.3 The Sub-Committee must consider what steps are appropriate for the promotion of the licensing objectives.

9.4 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

9.5 All licensing determinations should be considered on the individual merits of the application.

9.6 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.

9.7 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.

9.8 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.

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## Community impact/links with Community Strategy

Not Applicable

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### 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.*

<b>Equality Analysis</b>	<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>	

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### Assessment of Risk:

The following risks apply to the decision:

<b>Risk / opportunity</b>	<b>Mitigation</b>
There are no specific issues from the report other than potential costs/risks associated with legal appeals.	

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**Consultation:**

Not Applicable

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**Legal Implications:**

Yes, under the legislation the Council is required to determine representations. The report is in accordance with the appropriate legislation.

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**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.

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**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  
Representations received

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

Term	Meaning

# Appendix 1

## Operating Schedule submitted by the applicant

The Licensee, that is the person in whose name the premises license is issued, shall ensure that all times when the premises are for any licensable activity, there are sufficient competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the license and for preventing crime and disorder. The Licensee shall ensure that all staff will undertake training in their responsibilities in relation to the sale of alcohol, particularly with regard to drunkenness and underage persons. Records will be kept of training and refresher training.

### **The prevention of crime and disorder**

Any incidents that may occur on the premises will be reported to the police.

The licensee will install CCTV which will be operated and maintained on the premises.

The CCTV will cover the entrance and exits from the inside and out, clear images of person or persons entering premises to clearly identify, till area frames visible at least half of screen, being capable of confirming the crime being committed, wide angle cameras so covering the full shop floor, recording device will be stored onsite in secure area or locked cabinet, have a monitor to review images, keep all digital images for 31 days, give access to police at any reasonable time, the cctv must have a suitable export method ie cd/dvd recorder to give police a copy for evidence and also in same format so no quality of image is lost.

### **Public Safety**

Appropriate fire procedures will be in place including fire extinguishers (foam, h2O and CO<sub>2</sub>), fire blanket, internally illuminated fire exit signs, numerous smoke detectors (see enclosed plan for details of locations) all appliances will be checked annually.

### **Prevention of Public Nuisance**

Customers will be asked to leave quietly in case of any public nuisance clear notices will be displayed to remind customers we do not tolerate any rude behaviour or any kind of abuse to customers or a member of staff and will be asked to leave quietly or police will be called.

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### **Protection of Children from Harm**

The licensee and staff will have a strict policy of people who appear to be under the age of 25 for photographic id such as proof of age card, citizen cards, photographic license or passport, official identity card issued by HM forces or EU country, with their full name and date of birth.

All staff will be trained for underage sales prevention regularly.

A register for refused sales shall be kept and maintained on the premises.