

Minutes of: LICENSING HEARING SUB COMMITTEE

Date of Meeting: 18 March 2024

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

Also in attendance: M. Bridge (Licensing Unit Manager)
M. Cunliffe (Democratic Services)
C. Riley (Legal Services)

H Longworth (Applicant)
N Simmons (Designated Premises Supervisor)

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 or media 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 APPLICATION FOR A VARIATION TO A PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF THE BOWER, 403 BOLTON ROAD WEST, RAMSBOTTOM, BL0 9RN

The Licensing Authority received an application to vary a Premises Licence under section 34 of the Licensing Act 2003 in respect of The Bower, 403 Bolton Road West, Ramsbottom, BL0 9RN. One representation had been received from an interested party.

The applicant for the licence in respect of the above premises is The Bower (NW) Limited, 403 Bolton Road West, Ramsbottom, BL0 9RN. Mr Nicholas Andrew Simmons is the Designated Premises Supervisor (DPS) at these premises since the 29th January 2024.

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 Where representations are made and not withdrawn Members are required to determine them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 variation of a Premises Licence under Part 3 of the Licensing Act 2003.

The Current operating schedule below was detailed in the agenda packs and the conditions currently attached to the existing premises licence were attached at appendix 1.

Supply of alcohol – For consumption on the Premises.

Tuesday to Thursday	11.00 to 16.30
Friday to Saturday	11.00 to 21.30
Sunday	10.30 to 14.30

Live Music (Indoors)

Tuesday to Thursday	09.30 to 17.00
Friday to Saturday	09.30 to 22.00
Sunday	10.00 to 15.00

Recorded Music (Indoors)

Tuesday to Thursday	09.30 to 17.00
Friday to Saturday	09.30 to 22.00
Sunday	10.00 to 15.00

Hours open to the Public

Tuesday to Thursday	09.30 to 17.00
Friday to Saturday	09.30 to 22.00
Sunday	10.00 to 22.00

The Proposed Variations below was detailed in the agenda packs.

Proposed Variation – Opening Hours

Sunday to Thursday	10.00 to 00.00
Friday to Saturday	10.00 to 01.30

Seasonal Variations

Christmas Eve	10.00 to 01.00
New Years Eve	10.00 to 01.00
Sundays Preceding	
Bank Holiday Monday	10.00 to 01.00
Thursday preceding	
Good Friday	09.30 to 01.00

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

Monday to Sunday	0.00 to 00.00
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Seasonal Variations

Christmas Eve	10.00 to 01.00
New Years Eve	10.00 to 01.00
Sundays Preceding	
Bank Holiday Monday	10.00 to 01.00
Thursday preceding	
Good Friday	09.30 to 01.00

Provision of Late-night Refreshment

Monday to Sunday	23.00 to 00.00
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Seasonal Variations

Christmas Eve	23.00 to 01.00
New Years Eve	23.00 to 01.00
Sundays Preceding	
Bank Holiday Monday	23.00 to 01.00
Thursday preceding	
Good Friday	23.30 to 01.00

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.

Only one (Not three as stated in the agenda pack report) relevant representations from an interested parties had been received against this application. A summary of this is detailed below:-

- Noise
- Residential area

The representation was attached at Appendix 2 in the agenda packs.

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 variation, 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

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.

Ms Hannah Longworth Mr Nick Simmons addressed the sub committee and told Members they were not wanting to open anything that would create excessive noise levels or be a rowdy business. There would only be occasional live music and this would be in the form of an acoustic guitar for a restaurant type setting in the afternoon. The majority of tables only seated 2 people and there would not be large groups unless an event such as a baby shower had been booked. Whilst the application stated midnight closing during the week it was not intended to open until that late time. The capacity of the venue was around 30 and the applicant reassured Members they were applying for the right reasons and not to create a noisy venue. A head chef was employed and the venue was to be child friendly.

Upon questioning by Members about the midnight closing, it was stated that this would cover any special events such as New Years Eve.

Members also enquired if the local community had been engaged with. It was stated by Mr Simmons that social media had been used to update on the refurbishment and Ms Longworth had personally visited most of the local business premises. She had communicated with neighbours but had encountered problems liaising with those who lived in the nearby apartments due to intercom related access issues. Mr Simmons stressed food would be the main priority for the establishment.

As the representor was not present at the meeting, 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

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

All of the evidence was considered with care, considering the representation and assurances made by the applicant 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 variation application in the terms requested**, subject to the existing conditions:-

Operating Schedule

This licence is granted subject to any Mandatory Conditions imposed by the Licensing Act 2003, and conditions volunteered on the application form to be undertaken by the applicant and where necessary, conditions imposed by the Licensing Authority in order to promote the Licensing Objectives.

Mandatory Conditions:

a No supply of alcohol may be made under the Premises Licence at a time when there is no Designated Premises Supervisor (DPS) in respect of the Premises Licence OR

at a time when the Designated Premises Supervisor does not hold a Personal Licence or his/her Personal Licence has been suspended.

b Every supply of alcohol under the Premises Licence must be made or authorized by a person who holds a Personal Licence.

c Any Door Security staff employed to carry out a security activity at the premises must be licensed with the Security Industry Authority (SIA).

d. In respect of the exhibition of films as mentioned below:

1 The admission of children to the exhibitions of any film is restricted as follows:

2 Where the film classification body is specified in the licence, unless 3(b) below applies, the admission of children is restricted in accordance with any recommendation of that body.

3 Where:-

(a) the film classification body is not specified in this licence, or

(b) the licensing authority has notified the holder of the licence that this subsection applies to the film in question,

the admission of children is restricted in accordance with any recommendation made by the licensing authority.

4 In relation to the above:

“children” means persons under the age of 18 years; and

“film classification body” means the persons or person designated as the authority under section 4 of the Video Recordings Act 1984.

Mandatory Conditions pursuant to The Licensing Act 2003

Mandatory Licensing Conditions (Amendment) Order 2014

1. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise)

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:

(a) a holographic mark, or

(b) an ultraviolet feature.

4. The responsible person must ensure that:

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:

(i) beer or cider: ½ pint

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml, and

(iii) still wine in a glass: 125 ml

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises, and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Definition:

Responsible person - as defined by section 153 (4) Licensing Act 2003 -

- (a) In relation to a licensed premises -
 - (i) the holder of a premises licence in relation to a premises
 - (ii) the designated premises supervisor (if any) under such a licence
 - (iii) any individual aged 18 or over who is authorised for the purposes of this section by such a holder or supervisor.
- (b) In relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question.

The Licensing Act 2003 (Mandatory Conditions) Order 2014

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1-
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - (b) “permitted price” is the price found by applying the formula-

where-

$$P = D + (D \times V)$$

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence-
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Conditions Consistent with the operating schedule

We have CCTV in operation at all times, with cameras over the bar area, on the stairs, one facing the entrance, one upstairs and two external cameras for the entrance and the rear of the property, we have external lighting as well.

We will be members of the PubWatch scheme and attend the meetings.

We will have signs asking the public to leave the premises quietly. The music will not be above an acceptable level.

We will have a Challenge 25 scheme in place where we ask youngsters that look under 25 for their ID. It is illegal to sell alcohol to any person under 18 years old.

COUNCILLOR G MCGILL
Chair

(Note: The meeting started at 1.00pm and ended at 1.28pm)

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