

Classification	Item No.
Open	

Meeting:	Licensing Hearings Sub-Committee
Meeting date:	19 July 2024
Title of report:	An application from Greater Manchester Police for a Summary Review of the Premises Licence in respect of Sky Bar, Unit 4, Kay Gardens, Bury, BL9 0BL
Report by:	Executive Director (Operations)
Decision Type:	Council
Ward(s) to which report relates	East

Executive Summary:

This report relates to an application by a Detective Superintendent of Greater Manchester Police in respect of the licensed premises, Sky Bar, Unit 4, Kay Gardens, Bury, BL9 0BL, for a Summary Review of the Premises Licence and for interim steps to be taken in advance of that review in accordance with Sections 53A to 53C of the Licensing Act. The reason for the application is because the police believe that the premises are associated with serious crime and serious disorder.

Recommendation

Options & recommended option

- To modify the conditions of the licence
- To exclude the retail sale of alcohol from the licence
- To remove the Designated Premises Supervisor from the licence
- To suspend the licence for a period not exceeding 3 months.
- To revoke the licence.

- Following the review under section 53C, Members of the Licensing Hearings Sub-Committee must review the interim steps that are currently in place and determine whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.

Key considerations

This is a Council Function that is delegated to the Licensing Hearings Sub-Committee 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.

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

Term	Meaning
DPS	Designated Premises Supervisor

Background papers:

Current Premises Licence
Section 53A application, Certificate and supporting evidence
Licensing Hearings Sub Committee Report (interim steps hearing) – 25 June 2024
Licensing Hearings Sub Committee Minutes (interim steps hearing) – 25 June 2024

1.0 INTRODUCTION

- 1.1 On the 24 June 2024, Greater Manchester Police submitted an application to the Licensing Authority for a Summary Review in respect of Sky Bar, Unit 4, Kay Gardens, Bury, BL9 0BL because they believe that the premises are associated with serious crime and serious disorder.
- 1.2 Summary reviews can be undertaken when the police consider that the premises concerned are associated with serious crime or serious disorder (or both). The summary review process allows interim conditions to be quickly attached to a licence and a fast-track licence review.
- 1.3 A 10 working-day public consultation exercise has been undertaken in accordance with Licensing Act 2003 regulations; requiring the application to be advertised by the displaying of a blue notice at or on the premises and details of the application published on the Council's website.

- 1.4 Within 48 hours of receiving a summary review application, under s53B of the Licensing Act 2003 the licensing authority must consider whether it is necessary to take interim steps pending the review of the licence for the promotion of the licensing objectives.
- 1.5 On 25 June 2024, a Licensing Hearings Sub Committee interim steps hearing was held, following receipt of the Summary Review application from Greater Manchester Police, Members of the Licensing and Safety Panel considered whether interim measures should be taken in respect of the Premises Licence for the purpose of promoting the Licensing Objectives.
- 1.6 The Panel resolved that in order to promote the said licensing objectives, it was necessary to impose interim steps and that these would be to modify the conditions to state that SIA registered door staff to be on duty at the Premises from 20:00 every night. The reasons for the Sub-Committee's decision are attached at Appendix 1.
- 1.7 The premises licence holder may make representations against the interim steps taken by the licensing authority. Under s53B of the Licensing Act 2003 the licensing authority must within 48 hours of the time of its receipt of the representations, hold a hearing to consider those representations.
- 1.8 The premises licence holder has not made representations against the interim steps taken by the licensing authority.
- 1.9 Under section 53C of the Licensing Act 2003, the licensing authority must hold a full review of the premises licence and determine the review within 28 days after the day of receipt of the application.
- 1.10 Following the review under section 53C, the licensing authority must then review the interim steps in place and determine whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.
- 1.11 The premises licence in respect of Sky Bar has been held by Sky Bar (Bury) Ltd since 9 December 2019. Michael Wood and Kieley Neill are Directors of the limited company. Michael Wood is also the Designated Premises Supervisor and has been since 21 September 2021..
- 1.12 The Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) and the Licensing Act (Hearings Regulations) 2005 (as amended) is the relevant legislation.
- 1.13 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 BACKGROUND

- 2.1 A Detective Superintendent has issued a certificate under section 53A (1)(b) of the Licensing Act 2003 in which he states the following:-

These premises are associated with Serious Crime and Serious Disorder.

At 00:14 hours on the morning of Friday the 21st of June 2024 an incident of serious disorder occurred at the above premises resulting in a customer being struck by an advertising board and seemingly being knocked unconscious and a female member of staff being punched to the face which knocked off her feet resulting in her colliding with a lamp post.

The offenders in this case have then fled the scene after being approached by another customer and threatened with a large adjustable spanner which was taken from behind the bar at the venue. A few minutes later, several customers from Sky Bar (one which was still carrying the adjustable spanner), and two members of staff have pursued the two males

onto Bury Interchange. A brief exchange has taken place before both males are attacked. The male from the initial assault outside Sky Bar has attempted to flee, however he trips and is then beaten 7 to 8 times in the head by one of the pursuing customers, with the adjustable spanner causing significant injuries to his head and face resulting in a complete loss of consciousness and a substantial loss of blood.

Whilst on the floor unconscious, the same offender kicks the male in the torso and one of the staff members hits the customer with what appears to be a bag. All parties then flee the scene leaving the male in a serious condition and the second member of staff, flees with the customer responsible for the assault. During the investigation, it transpires that this second member of staff is responsible for discarding the weapon in a bin at the far side of the interchange before returning to the premises and continuing with his duties.

It is my opinion that an expedited review of the premises licence is necessary to allow the licence authority to review/amend the licence conditions and prevent a reoccurrence of such serious crime and disorder.

Attached to this report are, at Appendix 2 (Application by Greater Manchester Police for the Summary Review) and Appendix 3 (Certificate issued by the Detective Superintendent) respectively.

3.0 REPRESENTATIONS

- 3.1 As part of the statutory process the Responsible Authorities and interested parties are entitled to make representations in relation to the review of a licence. The Licensing Authority has given Notice of this review by placing a Notice on the premises, at the Council Offices and on the Council web-site. Where further representations are made by either the Responsible Authorities or from local residents / businesses and not withdrawn, Members are required to determine them. Greater Manchester Police will give evidence at the hearing.
- 3.2 Representations must be relevant to the licensing objectives defined within the Act. The objectives are:-
- a. The prevention of crime and disorder
 - b. Public safety
 - c. Prevention of public nuisance
 - d. Protection of children from harm
- 3.3 No further representations were received, however 3 emails in support were received from customers of the premises. These are attached at Appendix 4.

4.0 CURRENT LICENSABLE ACTIVITIES

- 4.1 The premises licence which shows the current licensable activities and conditions is attached at Appendix 5.

5.0 THE SECRETARY OF STATE'S GUIDANCE TO THE LICENSING ACT 2003

- 5.1 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.

- 5.2 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.
- 5.3 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.

6.0 CONCLUSION

- 6.1 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.
- 6.2 In considering the matter, the Sub-Committee should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant. In reaching the decision, regard must also be had to relevant provisions of the national guidance and the Council's licensing policy statement.
- 6.3 The Sub-Committee must consider what steps are appropriate for the promotion of the licensing objectives taking into account any change in circumstances since any interim steps were imposed, any relevant representations, and review the interim steps already taken (if any).
- 6.4 In making its final determination, the steps the Sub-Committee can take are:
- To modify the conditions of the premises licence
 - To exclude from the scope of the licence any of the licensable activities to which the application relates;
 - To remove the designated premises supervisor from the licence;
 - To suspend the licence for a period not exceeding 3 months;
 - To revoke the premises licence.
- 6.5 The conditions of the licence, with the exception of mandatory conditions of the premises licence, may be modified to alter or omit any of them or to add any new condition, including restricting the times at which licensable activities authorised by the licence can take place.
- 6.6 All licensing determinations should be considered on the individual merits of the application.
- 6.7 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.
- 6.8 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.
- 6.9 The Sub-Committee is asked to determine what steps, as set out in 6.4 above, are appropriate for the promotion of the licensing objectives.

- 6.10 The Sub-Committee's determination of the review does not have effect until the end of the 21 day period given for appealing the decision, or until the disposal of any appeal that is lodged.
- 6.11 To ensure that there are appropriate and proportionate safeguards in place at all times, the licensing authority is required to review any interim steps that it has taken that are in place on the date of the final review hearing. This is to be done immediately after the determination of the review under s53C. In reaching its decision, the panel must consider any relevant representations made.
- 6.12 The steps available to the Sub-Committee are:
- To modify the conditions of the licence;
 - To exclude the sale of alcohol by retail from the scope of the licence;
 - To remove the designated premises supervisor from the licence; and
 - To suspend the licence.
- 6.13 Upon the determination of the licence review, the Sub-Committee is asked to review the interim steps in place and determine whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn

Appendix One

Decision and Reasons for Decision at the Interim Steps Hearing on 25 June 2024

Appendix Two

Application by Greater Manchester Police for the Summary Review

Appendix Three

**Certificate issued by Detective
Superintendent**

Appendix Four

Emails in support of the Premises

Appendix Five

Premises Licence for Sky Bar