

Classification	Item No.
Open / Closed	

Meeting:	Licensing Hearings Sub-Committee
Meeting date:	29 January 2025
Title of report:	Application for a Premises Licence to be granted under the Licensing Act 2003 in respect of Chesters, 62 Bridge Street, Ramsbottom, BL0 9AG
Report by:	Executive Director (Operations)
Decision Type:	Council
Ward(s) to which report relates	Ramsbottom

Executive Summary:

This report relates to an application for a Premises Licence to be granted under the Licensing Act 2003 in respect of Chesters, 62 Bridge Street, Ramsbottom, BL0 9AG.

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 Mr Saad Bashir, 85 Cedar Street, Blackburn, BB1 9TQ.
- 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 Where representations are made and not withdrawn Members are required to determine them.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:

Opening Times:

Sunday to Thursday	14.00 to 01.00
Friday Saturday	14.00 to 02.30

Provision of Late Night Refreshment (Indoors):

Sunday to Thursday	23.00 to 01.00
Friday Saturday	23.00 to 02.30

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

4.0 REPRESENTATIONS FROM INTERESTED PARTIES

- 4.1 Three representations have been received from Interested Parties; they will make their representations at the hearing.
- 4.2 These representations are attached at Appendix 2.

4.3 Members should be aware of the section 182 Guidance issued under the Licensing Act 2003 which states as follows:-

14.65 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa. However, as set out in chapter 9, licensing committees and officers should consider discussions with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

14.66 There are circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.

4.4 The Licensing Authority have forwarded the points raised regarding Planning matters to the Planning Service for their consideration.

5.0 OBSERVATIONS

5.1 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.

6.0 THE SECRETARY OF STATES GUIDANCE TO THE LICENSING ACT 2003

6.1 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.

6.2 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.

6.3 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.

7.0 CONCLUSION

7.1 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.

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

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

7.4 In making its decision with regard to this 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

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

7.6 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.

7.7 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.

7.8 The Sub-Committee is asked to determine what steps, as set out in 7.4 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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Bury

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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

General

1. Being mindful of the location of the premises, hours of operations and activities.
2. Complying with all conditions of the premises license.
3. Ensuring appropriate control measures are in place and staff training is up to date and relevant.
4. Considering public nuisance when establishing the design and the layout of the premises.

Prevention of Crime and Disorder

5. Presence of good CCTV cameras inside and outside premises which will actively deter disorder, nuisance and anti-social behaviour and crime generally also do id checks on all employees to prevent any illegal worker being employed in licenced premises.

Public Safety

6. Ensuring presence of trained first aider on premises and appropriate first aid kits available on premises, ensuring the safety of people when leaving premises, good communication with local authorities and cctv installion, fire safety measure is in place.

The Prevention of Public Nuisance

7. We will make sure all windows and door are shut after certain time like after 10pm and no one is allowed to the back garden and we will not play any music in shop.
8. we will not have any bright lighting outside shop and leave quietly after work late at night.

The Protection of Children from Harm

9. we will not have any entertainment on tv to harm children, not allow unaccompanied children after 8pm.

Appendix 2

Representations from Interested Parties

11/11/2024

Dear Sir/Madam

I am writing to OBJECT to the application on the grounds of public nuisance and, potentially, public safety and crime and disorder.

The idea of this establishment being open till 02:30 is worrying and would negatively impact my life, especially as I am in poor health (long term). I assume this takeaway (as per the previous occupant) will only be permitted to trade on the ground floor.

Ramsbottom is not generally a late night town, to be open this late could attract people from other areas. They could congregate outside the premises as there is nowhere else to go in the town at that hour. This could cause nuisance and disturbance.

As you are, I'm sure, well aware, Ramsbottom (unlike Bury) does not have a police station or any sort of regular police presence to protect us from such occurrences.

I hope you will seriously consider this objection and hopefully act to protect the residents.

I live next door at 64a bridge st i would like to object as im not against the shop being open. Its the extractor fan outside running whilst shop is open my bedroom is right next to the extractor fan which makes a very noticeable humming noise right next to where i sleep i have to be awake for work at 4:30am most morning. If application is successful and if its running til 2:30am it would seriously make normal life and sleeping stressful. 11pm is fine but 230am at weekends and 1am through week is too much. Or comprise by moving the extractor fan or updating so doesnt cause distress as it looks old and not well looked after also if the upstairs is being used as a dining/drinking area it is literally 6 inches from my room. Im sat here now at nearly 12am at night trying to sleep as ive had to locate to living room as fans is still on next to my bed and theres drilling,banging and extractor blaring. So my faith in keeping noise to acceptable limits is not the best

Thank you

My wife & I are the beneficial owners of the adjoining premises situate at 64/64a Bridge Street Ramsbottom BL0 9AG.

Currently 64 (ground floor) is trading as Unique Stitches; 64a (first floor) is a residential flat occupied by XXX (tenant) and managed by XX

On behalf of ourselves, and our tenant Mr XX , we wish to place on record our **objection** to the above application for extended opening hours in the **strongest possible terms** !

Mr XX and indeed previous tenants have enjoyed their 'peaceful occupation' of the premises over a number of years whilst no. 62 remained closed.

It was inevitable that the premises, at some future date, would re-open as permission was GRANTED in October 2020 – Application number **65723** refers.

Whilst not desirable adjacent to residential premises the current opening times 10am – 11.00pm Sunday to Thursday

10am – 11.30pm Friday and Saturdays are accepted !

However, my tenant, who has been resident for nearly 2 years, has taken to sleeping in the lounge due to excessive noise & nuisance caused by the recently re-opened premises adjoining into the early hours of the morning. The noise and constant hum of the extraction unit being the cause. He is now looking elsewhere feeling he is being 'driven' out although he would much rather stay. This also gives me a problem in re-letting.

In addition; the current business, rather than ceasing trading at 11.00pm Mon – Thurs & until 11.30pm Fri – Sat, as they are required to do under their **existing conditions of Planning Permission**, have remained open into the early hours.

My tenant has also noticed a greater number of rats in the rear cobbled street and indeed we are suddenly having to take steps to deter and eradicate from the loft area of our building. Whether this is a result of disturbance whilst renovations of 62 were completed or the rats have now found a new food source remains to be seen.

It is my contention that the occupiers are currently in contravention of their existing Planning Approval and are acting in a manner which suggests they have a total disregard for their obligations to the conditions contained within the **NOTICE OF PLANNING PERMISSION** dated 08/10/2020.

In support of my **objection** I would bring to your attention paragraphs **4, 6, 7 & 9** of the **NOTICE OF PLANNING PERMISSION** dated 08/10/2020 which sought **to protect adjacent residential premises from undue disruption & nuisance** whilst still allowing the food outlet to trade.

- 1) I don't believe sufficient soundproofing work has been carried out and hereby request a copy of the scheme submitted to the Local Planning Authority and their subsequent approval? A statement from the planning Consultant that 'masonry is of a robust construction' obviously wasn't & isn't enough – para 4 refers - **NR25 (Noise Rating)** **"The installation shall be so designed such that the maximum noise emitted does not exceed NR25 in the bedrooms of the nearest residential property, with the windows of that residential property being open in the normal manner for ventilation purposes.**

On the evenings of 27th & 28th December 2024, using our own test equipment with windows **closed**, recordings peaked at 59db far greater than the NR25 with a range of 25db – 35db required !

- 2) Re para 6; Permitted opening hours, restricted to 11.30pm Friday & Saturday – we observed on both days 27th & 28th December 2024 that the premises were open and **still serving food at 12.45am** to waiting Uber Eats Taxis and the public. **Clearly a contravention.**
- 3) It has been suggested by my tenant that a considerable amount of work is currently being carried out to the first floor of 62, also late into the evening, which as you will see from para 9 that this can only be used for storage !

Since the application for extended hours was only brought to my attention 3 days ago I have not had the opportunity to canvas other residents living in Back Square/Silver Street, who may already have lodged an objection, but in the meantime please acknowledge receipt of my objection.

I realise that some of the points I have raised may be better directed to Building Control, or some such Department, but I do believe that in granting the original Planning Application the powers that be did have consideration for local residences which, in my view, was right and proper.

Reference Paragraphs

4 No development shall take place unless and until a scheme to soundproof the party walls and floor/ceiling between the ground floor and the first floor has been submitted to and approved by the Local Planning Authority. Such

works that form the approved scheme shall be completed before the development hereby approved is brought into use.

Reason. The application contains insufficient detail in order to demonstrate that the required scheme would maintain the residential amenities to protect the residential amenities of the future occupiers of the flat pursuant to UDP Policies S2/2 – Prime Shopping Areas and Frontages, S2/6 - Food and Drink EN7/2 Noise Pollution.

6 The use hereby permitted shall not be open to customers outside the following times:

10am to to 11.00pm - Sunday to Thursday

10am to 11.30pm Fridays and Saturdays.

Reason. To safeguard the amenities of the occupiers of nearby residential accommodation pursuant to Policies S2/2 - Prime Shopping Areas and Frontages, S2/6 - Food and Drink, EN1/2 - Townscape and Built Design and EN7/2 Noise Pollution of the Bury Unitary Development Plan.

7 No development shall commence unless and until a scheme for treating, diluting and dispersing fumes and odours has been submitted to and approved in writing by the Local Planning Authority. The scheme submitted shall include a written statement from a suitably qualified person who is a member of the Heating and Ventilation Contractors Association (HVCA) or an equivalent professional body, stating that the fume treatment to be installed complies with or exceeds the 'Minimum Requirements For Odour Control' provided by the Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems :DEFRA 2005 (or if applicable such superseding guidance as shall prevail at the time of commencement of the development).

The scheme to be submitted shall also include the relevant manufacturer and installer instructions for any associated equipment with details of maintenance requirements.

The scheme as approved shall be implemented prior to the first use of the development hereby approved and thereafter maintained in accordance with the approved scheme whilst it shall serve the development.

Reason. The application contains insufficient detail in order to demonstrate that the required scheme would maintain the residential amenities of nearby residential property from impact upon from fumes and odour pursuant to UDP Policies S2/2 - Prime Shopping Areas and Frontages, S2/6 - Food and Drink,

EN1/2 - Townscape and Built Design, EN7/1 - Atmospheric Pollution and EN7/2 Noise Pollution.

9 The first floor of the application property, No 62 Bridge Street, shall only be used for storage purposes in association with the development hereby approved.

Reason. To protect the residential amenities of the adjacent properties pursuant to Bury Unitary Development Plan Policies EC4/1 - Small Businesses, EN1/2 - Townscape and Built Design, S2/6 - Food and Drink and EN7/2 - Noise Pollution