

LICENSING ACT SUB COMMITTEE

LICENSING ACT 2003 PREMISE LICENCE VARIATION – THE ROYAL HOTEL, MAIN ROAD, BOLTON-LE-SANDS

DETERMINATION OF APPLICATION FOLLOWING RELEVANT REPRESENTATIONS

20th OCTOBER 2020

Report of Licensing Enforcement Officer

PURPOSE OF REPORT

To enable members to determine an application to vary a Premise Licence under Section 34 of the Licensing Act 2003 submitted by Punch Taverns Ltd for the Royal Hotel, Main Road, Bolton-le-Sands, Carnforth, following the receipt of relevant representations.

The report is public

RECOMMENDATIONS

The Sub Committee is requested to determine in the light of the representations made and having regard to the Council's Statement of Licensing Policy, The Licensing Act 2003 and any Regulations made under that Act as well as Government Guidance whether to vary the application as requested, modify any conditions of the licence, or to reject the whole application. Members are reminded that they should state the reason(s) for their decision.

1.0 Introduction

1.1 The Council grants permissions for Premise Licences submitted under the Licensing Act 2003 (the Act). Punch Taverns Ltd have submitted an application under Section 34 of the Licensing Act 2003 to vary a premises licence for the Royal Hotel, Main Road, Bolton-le-Sands, Carnforth .It has been established that this is a properly served application with all relevant notices being displayed in accordance with the statutory requirements of the Act.

1.2 The current premises licence permits the following:-

Exhibition of Films	Monday – Saturday	08:00 to 00:30
Exhibition of Films	Sunday	08:00 to Midnight
Performance of Live Music	Monday – Saturday	12:00 to Midnight
Performance of Live Music	Sunday	12:00 to 23:30

Playing of Recorded Music	Monday – Saturday	09:00 to Midnight
Playing of Recorded Music	Sunday	10:00 to 14:30
Late Night Refreshment	Monday – Saturday	23:00 to 00:30
Late Night Refreshment	Sunday	23:00 to Midnight
Supply of Alcohol	Monday – Saturday	09:00 to Midnight (on/off)
Supply of Alcohol	Sunday	10:00 to 23:30 (on & off)

The current variation application is to change the layout and design of the premises in accordance with the submitted plan. The main alteration is to facilitate a bar servery in the external beer garden area that is contained within the existing licensed area.

Details of the application to vary the premises licence are set out in the application form, together with the plan which is attached as Appendix No.1 to this report.

- 1.3 There is a statutory requirement to advertise such applications for a period of 28 days in which time representations in favour or against the application can be submitted. Any representation submitted must relate to the likely impact of the grant of the licence on one or more of the four licensing objectives which are:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 1.4 During the 28 day consultation period two representations were received from Other Persons as defined by the Act. Copies of the representations are attached at Appendix No.2 to this report.
- 1.5 The representations relate to the likely impact of the variation of the licence in relation to two of the licensing objectives, namely:
- The prevention of public nuisance
 - The protection of children from harm

The Other Persons contend that there has been an increase in noise nuisance which has been exacerbated by the outside bar servery in the beer garden of the premise that has directly affected them on several occasions that Notification of Temporary Events (TEN's) have been utilised.

- 1.6 Under Section 35(3) of the Act, it is necessary for a hearing to be held to consider the application, as representations have been received from Other Persons. The relevant section prescribes:

Where relevant representations are made, the authority must-

- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
- (b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.

The steps are-

(a) to grant the application subject to –

- (i) the conditions mentioned in subsection 2 (a) modified to such extent as the authority considers appropriate for the promotion of the licensing objectives and
- (ii) any condition which must under section 19,20 or 21 be included in the licence;

(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;

1.7 The relevant parts of the Council's Statement of Licensing Policy as well as Government Guidance in relation to public nuisance and child protection are attached at Appendix No.3 to this report.

1.8 In accordance with the relevant Regulations, the parties have been given notice of the hearing. It was not felt necessary to request any clarification from the parties. The parties have been required in accordance with the Regulations to indicate at least five working days before the hearing whether they intend to attend and/or be represented at the hearing and if they wish any witness to appear at the hearing. Any responses and any further documentation submitted by any of the parties after the circulation of this agenda will be circulated to Members in advance of the meeting. Members are reminded that documentary or other information submitted on the day of the hearing may only be taken into account with the consent of the Sub-Committee and all the parties.

1.9 Members are reminded that they must follow the rules of natural justice, and must also consider human rights implications. In particular, in accordance with Article 6, all parties are entitled to a fair hearing. Consideration also needs to be given to the right to respect for private and family life and home, contained within Article 8, although this is a qualified right, and interference is permitted where this is in accordance with the law, or is necessary in a democratic society in the interests of public safety or the prevention of crime and disorder, or for the protection of the rights and freedoms of others. Article 1 of the First Protocol provides that every person is entitled to the peaceful enjoyment of his possessions, although again this right is qualified in the public interest.

2.0 Conclusion

2.1 Members should consider, having regard to the Councils Statement of Licensing Policy, The Licensing Act 2003 and any Regulations made under that Act, Government Guidance and representations made, whether to grant the application as requested, modify any conditions of the licence, or to reject the whole application. Members are reminded that they should state the reasons for their decision.

2.2 Members should note that due to exemptions contained in the Live Music Act 2012, if the applications is granted with conditions, any condition relating to live music would not be applicable between the hours of 0800 and 2300 provided that the premise is open for the sale of alcohol and there is an audience of no more than 500. In the case of this particular application, this will be negated as the beer garden will be closed by 22:00 hours.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None.

FINANCIAL IMPLICATIONS

Financial Services have not been consulted as there are no financial implications.

LEGAL IMPLICATIONS

Legal implications are contained within the report, In accordance with Section 181 and Schedule 5 of the Licensing Act 2003, the parties have a right of appeal to the magistrates court within 21 days

BACKGROUND PAPERS

None

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