

LICENSING ACT 2003 SUB COMMITTEE

Monday, 30th January, 2023
11.00 am





LICENSING ACT 2003 SUB COMMITTEE

COMMITTEE ROOMS 2&3

Monday, 30th January, 2023 at 11.00 am

Members are reminded that if they have detailed questions on individual reports, they are advised to contact the report authors in advance of the meeting.

Members of the public may ask a question, make a statement, or present a petition relating to any agenda item or any matter falling within the remit of the committee.

Notice in writing of the subject matter must be given to the Head of Governance, Law & Regulation by 5.00pm on the day before the meeting. Forms can be obtained for this purpose from the reception desk at Burnley Town Hall or the Contact Centre, Parker Lane, Burnley. Forms are also available on the Council's website www.burnley.gov.uk/meetings.

AGENDA

7) *Determination of an application to vary an existing Premises Licence* 3 - 12

To determine an application to vary an existing Premises Licence application under the Licensing Act 2003 relating to Bees Knees, 20-22 Hargreaves Street, Burnley.

MEMBERSHIP OF COMMITTEE

Councillor Anne Kelly
Councillor Lorraine Mehanna

Councillor Mark Townsend
Councillor Don Whitaker

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REPORT TO LICENSING SUB-COMMITTEE



DATE	30th January 2023
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Licensing Act 2003 application to Vary a Premises Licence
Bees Knees 20-22 Hargreaves Street, Burnley

PURPOSE

1. To consider an application under section 34 of the Licensing Act 2003 (The Act) received from AJP Leasehold Ltd to Vary a Premises Licence for Bees Knees, 20/22 Hargreaves Street, Burnley.
2. A copy of the application is attached at Appendix A.

RECOMMENDATION

3. Members are recommended to make a determination under section 35 of the Act with a view to promoting the licensing objectives.
 - The prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - Protection of children from harm

The committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- To grant the application;
- To modify the conditions of the licence, (ie alter, omit or add new conditions), to such an extent as are considered appropriate for the promotion of the licensing objectives;
- To reject the whole or part of the application.

The licence will remain subject to the Mandatory Conditions laid out in the Act.

REASONS FOR RECOMMENDATION

4. Members of the Licensing Committee are responsible for determining such applications.

SUMMARY OF KEY POINTS

5. An application to vary the premises licence under the Licensing Act 2003 was received by the Licensing Authority on 10th November 2022.

Details of the variations requested are detailed in the application form and are summarised as follows:

- To bring forward the start time for licensable activities (live & recorded music, dance & similar entertainment, and the sale of alcohol) from 11am to 10am Monday to Sunday
- To add late night refreshment 11pm to 5am Monday to Sunday
- To remove specified (non-mandatory) conditions imposed in accordance with the operating schedule (pages 14-16 of Appendix A)
- To add specified conditions (section M, pages 17 and 18 of Appendix A)

During the advertisement period further conditions were also agreed between the applicant and the police and environmental health as responsible authorities. The combined effect of these changes to conditions is provided at Appendix B. NB The proposed variation seeks to change the conditions applicable across all licensable activities, all of the time that they are carried on. Mandatory Conditions are unaffected.

The advertisement requirements for the variation were initially not met, and so the application was held until the requirements were satisfied. As a result the 28 day period for representations recommenced on 9th December, ending on 5th January in accordance with that prescribe by regulations.

Copies of the application were sent to all Responsible Authorities. Representations were received from the Environmental Health Officer on 23rd December 2022 and they were included to the original report at Appendix C. **Following further mediation between the applicant and the Environmental Health Officer, the applicant has agreed to add the additional conditions outlined in Appendix B. The Environmental Health Officer has now withdrawn their representation.**

Relevant representations were also received within the prescribed period from 2 individuals and are attached as Appendices D & E.

Members are reminded that representations are relevant where they relate to the likely effect of the grant of the application on one or more of the 4 licensing objectives which are:

- PREVENTION OF CRIME & DISORDER
- PUBLIC SAFETY
- PREVENTION OF PUBLIC NUISANCE
- PROTECTION OF CHILDREN FROM HARM

Members are reminded that this is an application to vary the licence, not a review of the existing licence.

The applicant has, at section M, detailed the steps they intend to take to promote the four licensing objectives. This schedule is incorporated into the licence as conditions when a licence is granted. Sub-Committee can modify, ie alter, omit or add to these conditions following a hearing.

Notice of a hearing has been sent to the applicant and to each of the persons from whom the licensing authority has accepted a representation.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

6. None

POLICY IMPLICATIONS

7. The following paragraphs from Burnley Borough Council's Statement of Licensing Policy 2022 – 2027 are relevant to this application:

1.2 The policy sets out how the Licensing Authority will carry out those functions and make licensing decisions. Departures from this policy may be appropriate in exceptional situations depending on the individual circumstances of the case. The aim of this policy is to outline how the Licensing Authority intends to apply the licensing regime to promote a vibrant entertainment and cultural industry that boosts the local economy, whilst securing the safety and amenity of residential and business communities and enhancing community wellbeing.

1.4 The licensing function is carried out with a view to promoting the four licensing objectives which are:-

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

Each licensing objective has equal importance.

1.5 Licensing functions will be discharged with integrity and objectivity, and in accordance with the Equality Act 2010. As required, each application will be considered on its own individual merits. Unless representations are received an application must, and will, be granted in the terms sought, i.e. in accordance with the licensable activities applied for, the licensed hours applied for, the operating schedule and mandatory conditions.

1.6 The 2003 Act is part of a wider Government strategy to tackle crime, disorder and anti-social behaviour and reduce alcohol harm. It is recognised that the Act is not the primary mechanism for controlling nuisance by individuals once they are away from the premises, and beyond the control of the holder of a licence, club certificate or temporary event authorisation.

1.8 The Licensing Authority is committed to cooperative, partnership working with the trade, police, fire and rescue service, Responsible Authorities, Burnley Business Improvement District, local businesses, residents and others to promote the licensing

objectives.

The following extracts from the Home Office Revised Guidance issued under Section 182 of the Licensing Act 2003, issued in 2022 are also relevant:

9.12 Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43 The authority'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.

10.14 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested

DETAILS OF CONSULTATION

The statutory consultation has taken place.

BACKGROUND PAPERS

9. Burnley Borough Council Statement of Licensing Policy.
Licensing Act 2003.
Home Office Revised Guidance issued under Section 182 of the Licensing Act 2003, issued in 2022.

FURTHER INFORMATION

PLEASE CONTACT:

Lisa Tempest at licensing@burnley.gov.uk

ALSO:

Karen Davies at licensing@burnley.gov.uk

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SUMMARY OF REQUESTED VARIATION OF (NON-MANDATORY) CONDITIONS

(NB: Mandatory Conditions will remain)

A daily incident logbook will be kept detailing all incidents of note at the premises or in the immediate vicinity e.g. slips, accidents, entry refusals and incidents of disorder etc. The log shall be a bound book and will detail the date, time, type of incident, brief circumstances, action taken, person dealing with the incident and whether the police attended. The logbook will be made available for inspection, if required.

Both any DJ (via announcements) and other members of staff will ask people to leave quietly and have regard for residential neighbours at the end of the evening.

Signage will be prominently displayed at all exits to the premises asking people to leave quietly and to have regard for residential neighbours.

Should under 18's events/discos be held at the premises, the police will be given one month's notice and the event will not go ahead without full police approval.

On occasions when children's functions take place, the bar shall be closed and the appropriate number of adults will be present will be present to supervise and ensure the safety of the children.

The Permitted Hours restrictions do not prohibit:

(a) removed

(b) removed

(c) removed

(d) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;

Proposed New Conditions

Upon commencement of their employment, all staff who are involved in the sale of alcohol will be trained in relation to the licensing objectives so as to reduce crime and disorder, promote public safety, prevent public nuisance and promote the protection of children from harm. Refresher training will be provided at least once every twelve months and all training will be documented and made available to an authorised officer upon request.

A CCTV system shall be installed at the premises and will meet the following criteria:

- The system will display on any recording the time and date of said recording;
- The system will be recording whenever the premises is open to the public;
- Any recordings will be retained for a minimum of ~~14~~ 28 days after they are made and will be produced to an authorised officer upon request, so long as said request

is in accordance with the principles of the Data Protection Act or any subsequent or alternative legislation;

- As a minimum, the CCTV will capture a “head and shoulders” image of any person who enters the premises through a public entrance.

Appropriate signage alerting customers to the use of CCTV shall be displayed in a conspicuous position at the premises.

A competent person trained in the use of and operation of the CCTV will be in attendance at the premise at all times that licensable activities are taking place. Said person will be able to fully operate the CCTV system and be able to download data in a recognised format when requested.

Prior to any occasion on which licensable activities are to be carried on at the premises, a risk assessment will be carried out to determine whether door supervisors are required. An appropriate number of door supervisors will be utilised in accordance with said risk assessment. As a minimum two SIA door supervisors will be employed on Thursday, Friday and Saturday from 22.00 until the premises has closed.

A door supervisors log book will be kept at the premises and will record the date, the door supervisors name, badge number and times they were employed.

The premises will have a written zero tolerance drugs policy which is enforced at all times.

Access to any outside area used for the consumption of alcohol will be via the premises only except in the case of an emergency.

The management of the premises will ensure that the area immediately outside the entrance to the premises is kept clean, tidy and free from litter.

The premises will have a written dispersal policy designed to encourage patrons to leave the venue and the area quickly and quietly.

~~Consumption of alcohol will not be permitted in the external beer garden after 03.00am.~~

On any occasion that live music is carried on at the premises, regular assessments of the noise emanating from the premises will be undertaken. Wherever said assessments indicate that noise is likely to cause nuisance to any local residents, remedial action will be taken. Said assessments will be documented and produced to an authorised officer upon request.

When the premises has live or recorded music playing after 22.00 all windows and doors are to be kept closed except for the entrance/exit door and in the case of emergency.

No persons under the age of 18 will be permitted on the premises after 19.00.

A “Challenge 25” Policy shall be adopted and enforced at the premises whereby any person who appears to be under the age of 25 shall be required to provide identification to prove that they are over the age of 18 before they are permitted to purchase alcohol. The only forms of acceptable identification will be:

- A Passport;
- A UK Photocard Driving Licence;
- Official ID card issued by HM Forces or EU bearing a photograph and the date of birth of the holder;
- Any other form of identification agreed with a representative of the Police Licensing Unit.

All staff who are involved in the sale of alcohol will be trained in relation to the “Challenge 25” policy upon the commencement of their employment, following which they will undertake refresher training at least once every twelve months. Said training will be documented and will be made available to an authorised officer upon request.

Additional Conditions agreed between applicant and police

During High Risk football matches at Burnley FC – From the start of permitted hours until at least two hours after final whistle, only plastic glasses to be used.

During High Risk football matches at Burnley FC – At least two SIA-registered door staff will be present at the premises two hours before kick-off and at least two hours after the final whistle.

We also agree to amend the condition relating to CCTV to state that recordings will be retained for 28 days instead of 14 days

Additional Conditions agreed between applicant and environmental health

Noise emanating from the external seating area will be monitored by staff and use of the external areas for consumption of alcohol will not be permitted after 01.00am.

No music will be played in the external seating area

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