

Licensing Panel

Licensing Act 2003

Application for Variation of a Premises Licence

Chillz Restaurant Bar & Lounge, 476-478 Oldham Road, Failsworth M35 0FH

Report of Executive Member for: Neighbourhoods

Officer contact: Nicola Lord

17th January 2023

Reason for Decision

The purpose of this report is to inform Members of an application for the variation of a premises licence in respect of Chillz Restaurant Bar & lounge, 476-478 Oldham Road, Failsworth M35 0FH which, due to representations being received, has been referred to this Panel for determination.

Recommendations

Members are recommended to consider the application, taking into account the representations received.

Licensing Panel – 17th January 2023

Licensing Act 2003 – Application to Vary a Premises Licence

Chillz Restaurant, Bar & Lounge, 476-478 Oldham Road, Failsworth M35 0FH

1 Background

1.1 The purpose of this report is to inform Members of an application for variation of a premises licence in respect of Chillz Restaurant, Bar & Lounge, 476-478 Oldham Road, Failsworth M35 0FH which, due to representations being received, has been referred to this Panel for determination.

2 Recommendations

2.1 Members are recommended to consider the application, taking into account the representation received.

3 The Application

3.1 On the 21st November 2022 Chillz Restaurant, Bar & lounge applied for the variation of a premises licence in respect of the premises named above. The last day for representations in respect of the application was the 19th December 2022 .

3.2 Details of the proposed variation are as follows:-

Extend the hours for their premises licence to provide existing licensable activities as outlined in the table below.

Activity	Current Hours	Proposed Hours
Recorded music Indoors	Mon to Thurs - 11:00 to 00:00 Fri and Sat - 11:00 to 01:30 Sun - 11:00 to 00:00	Mon to Thurs - 11:00 to 00:30 Fri and Sat - 11:00 to 04:00 Sun - 11:00 to 00:30 Bank Holidays 11:00 to 04:00
Late night refreshment Indoors	Mon to Thurs - 23:00 to 00:00 Fri and Sat - 23:00 to 01:30 Sun - 23:00 to 00:00	Mon to Thurs - 23:00 to 00:00 Fri and Sat - 23:00 to 03:30 Sun - 23:00 to 00:00 Bank Holidays 23:00 to 03:30
Supply of alcohol On and Off Premises	Mon to Thurs - 11:00 to 00:00 Fri and Sat - 11:00 to 01:30 Sun - 11:00 to 00:00	Mon to Thurs - 11:00 to 00:00 Fri and Sat - 11:00 to 03:30 Sun - 11:00 to 00:00 Bank Holidays 11:00 to 03:30

3.3 A copy of the application is attached at **Appendix 1**.

3.4 A location map is attached at **Appendix 2**.

4 Representations

4.1 Following submission and advertisement of the application a representation was received. This can be found at **Appendix 3** to this report.

4.2 It should also be noted that following consultation with Greater Manchester Police, their representation was withdrawn when the applicant agreed to incorporate the following amendments to requested hours and revised the conditions on the premises licence:

GMP object to the applicant's closing time of 0400hrs as the police resources are at the minimum capacity from 0300hrs, and their response time to attend any crime or disorder would not be adequate.

The changes to the times GMP would suggest on the new licence would be:

Premises Open Hours Granted

Monday to Thursday 1100 – 0030

Friday and Saturday 1100 – 0300

Sunday 1100 – 0030 (Any other day preceding a bank holiday 1100 – 0300)

Playing of recorded music (Indoors)

Monday to Thursday 1100 – 0000

Friday and Saturday 1100 – 0230

Sunday 1100 – 0030 (Any other day preceding a bank holiday 1100 – 0230)

Late night refreshment (Indoors)

Monday to Thursday 2300 – 0000

Friday and Sunday 2300 – 0230

Sunday 2300 – 0000 (Any other day preceding a bank holiday 1100 – 0230)

Supply of alcohol for consumption ON and OFF the premises

Monday to Thursday 1100 – 0000

Friday and Saturday 1100 – 0230

Sunday 1100 – 0000 (Any other day preceding a bank holiday 1100 – 0230)

Revised conditions under the Crime and Disorder Objective:

CCTV system installed and maintained at the premises.

CCTV must be a digital, colour system, capable of providing pictures of evidential quality in all lighting conditions, particularly facial recognition.

CCTV must cover all areas of the licensed premises, including all entry and exit points, including fire exits and all areas where the sale/supply of alcohol takes place.

CCTV must continually record whilst the premises are open to the public, and recordings shall be kept in date order, numbered sequentially and shall be available and unedited for a minimum of 31 days.

CCTV must have date and time stamping.

A member of staff who can operate the CCTV system shall always be present at times when the premises are open to the public. This staff member must be able to produce, download and burn CCTV images upon request by a police officer or an authorised officer of the licensing authority.

CCTV footage must be supplied in a format so it can be played back on a standard person computer, or standard DVD player. Where the recording is on a removable medium i.e., compact disc, flash card etc), a secure storage system to store those recording mediums must be provided.

An operational daily log must be kept recording checks made on the CCTV system to ensure it is compliant, and in the event of any failings actions taken are to be recorded.

An incident log (which may be in electronic format) must be kept at the premises, with records kept for a minimum of 6 months. This log to be made available on request to the police or authorised licensing officer. Incident log must record the following:

- All crimes reported to the venue, or reported by the venue to the police

- All ejections of patrons

- Any incidents of disorder

- Any visit by a relevant authority or emergency service

The Designated Premises Supervisor (DPS) must ensure a written notice of authority is kept at the premises, detailing all staff who sell alcohol. The notice must be made available for inspection upon request of the police or other authorised officers.

All staff selling alcohol must be in possession of formal identification to enable verification of their identity against the written authority.

A minimum of 2 SIA (Security Industry Authority) door supervisors, from a reputable company, must be employed at the premise on a Friday, Saturday, New Year's Eve, Sunday, and any other day preceding a bank holiday from 2200hrs to close of business

All door supervisors to wear hi-visibility jackets and display their SIA badge in an arm band. This arm band will be worn on the sleeve of their coat/jacket, so that it is visible to members of the public, police officers and licensing officers.

A written record of the door supervisors working on any evening must be kept. The minimum amount of information that must be recorded is "date," "full name," "time shift started," "time

shift finished," "SIA badge number," "signature." Upon request this record must be given to Greater Manchester Police and/or and authorised officer of the Council.

Random searches will take place on persons entering the premises as a customer. Those suspected of carrying offensive weapons/drugs will be excluded from the premises. All other venues will be notified of these exclusions immediately giving full descriptions of the individuals.

Excluded individuals will be denied entry into the premises (excluded individuals include that subject to court bans, pub watch exclusions and those excluded by the licence holder).

The DPS or nominated person will share intelligence on drug use, drug dealing and anti-social behaviour within the venue to police officers, council licensing, BID officer and other local venues.

The premises licence holder or DPS will ensure staff employed at the venue are aware of the law and their responsibilities under the licensing act. Those at management level must undertake training in Licensing Law, such as a BIIAB accredited course, or any other recognised training courses. All other staff must receive in house training. All staff must receive this training within 3 months of employment, with refresher training must be given every 12 months.

The venue will maintain a written record of this training, detailing the following:

Date initial training completed,

Date refresher is due, and subsequently completed

Type of training provided

All staff receiving this training will sign this document to say the above has been provided and completed. This record will be made available to an authorised officer on request.

The premises will operate a "Challenge 25" scheme in relation to age verification for alcohol sales and other age-restricted products.

Challenge 25 signage displayed in prominent positions inside the premise to inform customers of this policy.

No drinks shall be consumed in the doorway of the premises and a notice will be in place stating such.

No glasses/bottles to be taken outside the premises. Door staff will maintain an orderly queuing system outside the venue.

A member of management will be at the premises from 7pm each day to close of business.

The management of the premises will introduce a strict "zero tolerance" policy in respect of the use and/or supply of illegal drugs on the premises. Suitable signage placed in prominent areas within the premises.

- 4.3 Representations were also received from two Councillors made on behalf of constituents, these were withdrawn in light of the agreed recommendations from the Police.
- 4.4 A representation was also received by a resident but was withdrawn in light of the agreed recommendations from the Police.

5 Licensing Policy

5.1 Members considering the application should take note of the Authority's Licensing Policy Statement when determining an application. Attention should be drawn to Section 8 of the Council's Statement of Licensing Policy relating to Public Nuisance.

5.2 In relation to Public Nuisance paragraph 8.2 provides:-

When addressing public nuisance the applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities), which are likely to adversely affect the promotion of the public nuisance objective. Such steps as are required to deal with these identified issues should be included within the applicants operating schedule.

5.3 A full copy of the Council's Licensing Policy statement will be available at the hearing.

6 Secretary of State Guidance

6.1 Members also need to consider statutory guidance issued, by the Secretary of State, under Section 182 of the Licensing Act 2003 (April 2018).

6.2 In relation to 'Public Nuisance', the following paragraphs provide:-

2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensable objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11pm and 8am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

2.20 Measures to control light pollution will also require careful thought. Bright light outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises and to respect the rights of people living nearby to a peaceful night.

A full copy of the guidance will be available at the hearing.

7 Options/Alternatives

7.1 When determining the application Members, having had regard to the representations, may take such steps as they consider appropriate for the promotion of the licensing objectives. The steps are -

- a) Grant the application as applied for with or without the amendments agreed with Greater Manchester Police, Environmental Health & the Licensing Service;
- b) Grant the application but modify the operating schedule in relation to hours, days, conditions or activities;
- c) To reject the application;

7.2 Any steps appropriate to promote the licensing objectives should be specified. If no steps are appropriate the application should be granted.

7.3 Findings on any issues of fact should be on the balance of probability.

7.4 In arriving at a decision Members must have regard to the relevant provisions of national guidance and the licensing policy statement and reasons must be given for any departure.

7.5 The decision should be based on the individual merits of the application.

8 Consultation

8.1 Consultation in accordance with the Act has taken place with all Responsible Bodies and notice has been given to allow for any representations from other persons.

9 Legal Services Comments

9.1 In determining the application Members should have regard to the Authority's licensing policy statement and the Secretary of State's Guidance. The applicant or any other person who made relevant representations in relation to the application have a right of appeal to the Magistrates' court. (S Rawat)

10 Environmental and Health & Safety Implications

10.1 Contained within the body of the report.

11 Equality, community cohesion and crime implications

11.1 The Council's 'Statement of Licensing Policy' takes into account these matters. All decision made by the Licensing Panel, must have regard to this policy and National Guidance.

12 Equality Impact Assessment Completed?

12.1 No

13 Background Papers

13.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act :

File Ref: Records held in Directorate
Officer Name: Nicola Lord

14 Appendices

Appendix 1 - Premises Licence Application & Proposed Site Plan

Appendix 2 - Location Map

Appendix 3 – Remaining representation against the application