

# Bath & North East Somerset Council

MEETING	<b>Licensing Sub Committee</b>	
MEETING DATE	Thursday 12 November 2020	EXECUTIVE FORWARD PLAN REFERENCE:
TITLE:	Common Room, 2 Saville Row Bath BA1 2QP	
WARD:	Abbey	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b>		
<b>Annex A</b> Application to vary premises licence		
<b>Annex B</b> Current premises licence		
<b>Annex C</b> Plan of licensed premises and site plan		
<b>Annex D</b> Representations received from Other Persons		

## 1 THE ISSUE

1.1 An application has been received for the Variation of an existing premises licence under Section 34 of the Licensing Act 2003 in respect of Common Room, 2 Saville Row, Bath BA1 2QP.

1.2 Relevant representations have been received within the statutory period.

## 2 RECOMMENDATION

2.1 The committee is asked to determine the application.

## 3 THE REPORT

3.1 An application has been received to vary an existing premises licence as detailed in Annex A.

3.2 The current premises licence is detailed in Annex B.

3.3 The Variation application seeks to:

- ADD the sale of alcohol for consumption off the premises:

Monday to Thursday	10:00 to 02:00 the following morning
Friday and Saturday	10:00 to 03:00 the following morning
Sunday	12:00 to 02:00 the following morning

- REMOVE the following conditions attached to Annex 1 of the current licence:

There shall be no off sales.

Sales of intoxicating liquor to be limited only to bona fide members of a club existing on the premises and their guests.

3.4 The following measures to promote the licensing objectives have been offered by the applicant within the operating schedule:

- Staff shall be trained on issues regarding the Licensing Act 2003, service of alcohol. A record of this training will be kept and made available for inspection as required by the Police or Licensing Authority;
- The premises will maintain an incident and refusals register. This will remain at the premises and be made available to an authorised officer of the police or licensing authority on request;
- All alcohol supplied for consumption off the premises will be sold in sealed containers with the exception of alcohol to be consumed within an area for which the premises has been granted a pavement licence, table and chairs permit or similar;
- Signage requesting patrons to be considerate to neighbours and to leave the premises quietly, shall be clearly displayed at the entrance/exit; and
- The premises will operate a 'Challenge 21' age verification policy and will display signs advertising this policy at the bar area.

3.5 There is no proposal within this application to increase the area from which licensable activities may currently take place. The proposal is to add the sale of alcohol for consumption **off premises** which if granted would enable the premises to operate an alcohol delivery service, provide traditional "off sales" and extend the temporary permission provided by the Business & Planning Act 2020. The latter makes provision to allow premises such as Common Room that do not have a dual licence, to be able to provide off sales at a time when the premises is also open for the sale of alcohol for consumption on premises, until a pre-cut off time of 23:00 hours, without the need to formally vary the premises licence.

3.6 A pavement licence has effect in respect of this premises until 23:00 hours Sunday to Thursday and until 00:00 hours on Friday and Saturday. The granting of this application would therefore permit alcohol to be consumed at the tables and chairs authorised by the pavement licence until midnight on Friday and Saturday; currently the temporary dispensation detailed in 3.6 lapses after 23:00 hours.

3.7 A plan of the licensed premises and site plan are attached at Annex C.

3.8 The Licensing Act 2003 (Section 4) states that it is the duty of all Licensing Authorities to carry out their functions under the Act with a view to promoting the licensing objectives. The licensing objectives are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm

3.9 Each objective is of equal importance. As there are no other licensing objectives, these four objectives are a paramount consideration at all times. When considering applications, representations or notifications, the Licensing Authority will have regard to these licensing objectives.

3.10 The Licensing Authority may vary and grant the application with or without additional conditions if they consider it appropriate to do so. The Licensing Authority can refuse the variation, or part of the variation, for the promotion of the licensing objectives.

3.11 The Licensing Authority may not however do anything to reduce the effect of the rights granted by the existing premises licence.

3.12 Section 4(3) Licensing Act 2003 states that the Licensing Authority should also have regard to the Council's Licensing Policy (as revised in 2020), the Statutory Guidance issued under Section 182 of the Licensing Act 2003, and the Licensing Act itself, and in particular:

- a) Paragraphs 3-6, 8-10,13-14,15,17-23, 27,33-36,38-41 and 43 of the policy
- b) Chapters 8, 9 and 10 of the Statutory Guidance (as revised April 2018);
- c) Sections 4, 9, 10, 13, 34, 35, 36, 182 and 183 of the Act.

3.13 The Licensing Authority recognises that Licensing and Planning are separate regimes. Where an application is granted by the Licensing Authority which would require planning permission this would not relieve the applicant of the need to obtain that permission. It will still be necessary for the applicant to ensure that he/she has **ALL** the necessary permissions in place to enable them to run the business within the law

3.14 If the application is refused the applicant may appeal within 21 days of the notification to the Magistrates' Court.

3.15 If the application is granted the person making the relevant representation may appeal within 21 days of the notification to the Magistrates' Court.

3.16 On appeal the court may either dismiss the appeal; substitute the decision appealed against for any other decision which could have been made by the Licensing Authority; or remit the case to the Licensing Authority to dispose of

it in accordance with the direction of the court. The court may make such order for costs as it thinks fit.

3.17 In accordance with the requirements of the Act copies of the application were served upon the Police, the Fire Authority, Environmental Health, Development Control, Trading Standards, the Health Authority and the Safeguarding Children and Young Persons Team.

3.18 The applicant was required to place a notice at the premises for a period of 28 consecutive days, starting the day after the application was made, and to publish a notice within a local newspaper within 10 working days of submitting the application to the licensing authority.

3.19 Three representation of objection have been received within the statutory period from other persons. These representations express concern that the applicant's proposals are likely to undermine the Prevention of Public Nuisance licencing objective. One representation also expresses concern in relation to the removal of the two Annex 1 conditions currently attached to the premises licence.

#### **4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

4.1 An equality Impact Assessment (EqIA) has been completed. No adverse or other significant issues were found.

4.2 Consideration must be given to the Human Rights Act 1998 and the "convention rights".

4.3 The Licensing Sub-Committee has been delegated authority to determine the application on behalf of the Licensing Authority in accordance with the Licensing Act 2003.

4.4 When reaching a decision, the Licensing Authority must carry out its functions with a view to promoting the four licensing objectives.

#### **5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

5.1 The cost of processing licences is covered by the fees charged. The fee for this application is £190.00.

#### **6 RISK MANAGEMENT**

6.1 A risk assessment related to the issue and recommendations has been undertaken in compliance with the Council's decision-making risk management guidance.

#### **7 CLIMATE CHANGE**

7.1 The licensing objectives do not require the applicant to specify steps to mitigate the impact of climate emergency. However, the applicant is encouraged to consider locally sourced ingredients and to reduce single use plastic in the operation of their business.

## 8 OTHER OPTIONS CONSIDERED

8.1 None.

9.1 The Council's Monitoring Officer (Director - Legal & Democratic Services and Council Solicitor), section 151 Officer (Director of Finance) and Head of Building Control and Public Protection have had the opportunity to input to this report and have cleared it for publication.

9.2 This report has not been sent to the Trades' Union as they would have no involvement.

<b>Background papers</b>	Licensing Act 2003; Guidance issued under s.182 of the Licensing Act 2003; Licensing Act 2003 (Premises and Club Premises Certificates) Regulations 2005; and B&NES Statement of Licensing Policy.
<b>Contact person</b>	Terrill Wolyn Senior Public Protection Officer - Licensing 01225 396939

THIS PAGE IS INTENTIONALLY BLANK