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| <b>Report to:</b>  | <b>SPEAKERS PANEL (LIQUOR LICENSING)</b>  |
| <b>Date:</b>   | 21 April 2023   |
| <b>Reporting Officer:</b>  | Emma Varnam – Assistant Director Operations & Neighbourhoods  |
| <b>Subject:</b>  | <b>APPLICATION FOR A PREMISES LICENCE – BEAN &amp; BUN, 4 BROADOAK CRESCENT, ASHTON UNDER LYNE, OL6 8QE</b>   |
| <b>Report Summary:</b>   | Members are requested to determine the application  |
| <b>Recommendations:</b>  | <p>Having regard to the application and the relevant representations, Members are invited to take such steps (if any) as it considers appropriate for the promotion of the licensing objectives. The steps available are:</p> <p>(a) to grant the licence subject to –</p> <p style="padding-left: 40px;">(i) such conditions that the authority considers appropriate for the promotion of the licensing objectives, and</p> <p style="padding-left: 40px;">(ii) current mandatory conditions;</p> <p>(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;</p> <p>(c) to refuse to specify a person in the licence as the premises supervisor;</p> <p>(d) to reject the application.</p>  |
| <b>Corporate Plan:</b>   | Living Well – Improve satisfaction with local community   |
| <b>Policy Implications:</b>  | Members are provided with policy guidelines to assist in the decision making process.   |
| <b>Financial Implications:</b><br><b>(Authorised by the statutory Section 151 Officer &amp; Chief Finance Officer)</b> | There are limited financial implications for the Council, as detailed in the report, however, any legal challenge to a policy decision may potentially incur costs.   |
| <b>Legal Implications:</b><br><b>(Authorised by the Borough Solicitor)</b>   | <p>If the Panel rejects the application that decision can be challenged by the Applicant. If the Panel grants the licence the Applicant can appeal against any of the conditions imposed on the licence or against a decision to refuse to specify a person in the licence as the premises supervisor.</p> <p>Any person who made relevant representations can appeal against the decision to grant the licence or against any of the conditions imposed on the licence or on the grounds that the Panel should have refused to specify a person in the licence as the premises supervisor. Any challenge would be by way of an appeal to the Magistrate’s Court which may dismiss the appeal, substitute for the decision appealed against 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 and may make such order as to costs as it thinks fit. If an appeal were successful the Magistrates would be unlikely to</p> |

order costs against the Local Authority if the authority had acted honestly, reasonably, properly and on grounds that reasonably appeared to be sound, in exercise of its public duty.

**Risk Management:**

Failure to give full consideration to the determination of licensing issues has the potential to impact on public safety.

**Access to Information:**

The author of the report is Mike Robinson, Regulatory Services Manager (Licensing)

**Background Information:**

The background papers relating to this report can be inspected by contacting Mike Robinson



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## 1. INTRODUCTION

- 1.1 Section 17 of the Licensing Act 2003 outlines the procedure whereby an application can be made to the Licensing Authority for a premises licence.
- 1.2 Section 18(3) of the Licensing Act 2003 states that where relevant representations are made in respect of such an application, 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 steps as mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.
- 1.3 The steps mentioned in subsection (4) are:
- (a) to grant the licence subject to –
    - (i) such conditions that the authority considers appropriate for the promotion of the licensing objectives, and
    - (ii) current mandatory conditions;
  - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
  - (c) to refuse to specify a person in the licence as the premises supervisor;
  - (d) to reject the application.

## 2. REPORT

- 2.1 On 27 February 2023 an application for the grant of a Premises Licence was made in respect of Bean & Bun, 4 Broadoak Crescent, Ashton-under-Lyne, OL6 8QE. The named applicant is Bean & Bun Ltd, the sole director of this company is Pavithra Coramatla, who is also the proposed Designated Premises Supervisor. A copy of the application is attached at **Appendix 1**.
- 2.2 A location map, including a photograph of the premises, is attached at **Appendix 2**.
- 2.3 The application is seeking the authorisation of a licensable activity, namely the provision of sale of alcohol.
- 2.4 The application is summarised as follows:
- Sale of alcohol – for consumption on the premises only**
- Monday - Sunday 10:30hrs – 23:00hrs
- Premises Opening Hours**
- Mon – Sun: 06.30 – 23.30
- 2.5 Upon receipt of the application, the Licensing Authority liaised with the applicant to agree conditions. These are attached at **Appendix 3**.
- 2.6 During the consultation period, a representation was received from a member of the public. The representation mainly relates to concerns regarding the proposed sale of alcohol, which is feared will cause inconvenience and nuisance to residents and nearby business owners, negatively impacting their lives.

### **3. REPRESENTATIONS & EVIDENCE SUBMITTED**

#### **Member of the Public**

- 3.1 A representation has been received from a member of the public, who is a local resident and neighbouring business owner. A copy of this is attached at **Appendix 4**.

### **4. HOME OFFICE GUIDANCE**

In determining this application the Panel must have regard to the Council's Statement of Licensing Policy and the statutory guidance issued pursuant to s182 of the Licensing Act 2003. The statutory guidance includes the following:

Determining actions that are appropriate for the promotion of the licensing objectives

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.

9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination

### **5 CONCLUSION AND OPTIONS FOR THE PANEL**

- 5.1 Panel are requested to consider the evidence and decide what (if any) steps to take as it considers appropriate for the promotion of the licensing objectives. The options available to the Panel are;

- (a) to grant the licence subject to –
  - (i) such conditions that the authority considers appropriate for the promotion of the licensing objectives, and
  - (ii) current mandatory conditions;
- (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
- (c) to refuse to specify a person in the licence as the premises supervisor;

(d) to reject the application.