

Report to:	SPEAKERS PANEL (LIQUOR LICENSING)
Date:	15 August 2023
Reporting Officer:	Emma Varnam – Assistant Director, Operations & Neighbourhoods
Subject:	APPLICATION FOR A FULL VARIATION OF A PREMISES LICENCE – FLETCHERS ARMS, 445 STOCKPORT ROAD, DENTON, M34 6EG (PL0374)
Report Summary:	Members are requested to determine the application
Recommendations:	<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> <ul style="list-style-type: none"> a) To modify the conditions of the licence b) To reject the whole or part of the application
Corporate Plan:	Living Well – Improve satisfaction with local community
Policy Implications:	Members are provided with policy guidelines to assist in the decision making process.
Financial Implications: (Authorised by the statutory Section 151 Officer & Chief Finance Officer)	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.
Legal Implications: (Authorised by the Borough Solicitor)	If the Panel rejects whole or part of the application, the decision can be challenged by the Applicant. The Applicant can appeal against any of the conditions imposed on the licence. Any person who made relevant representations can appeal against the decision to grant the application or against any of the conditions imposed on the licence. 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 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 Under Section 34 of the Licensing Act 2003 a premises licence holder may apply to the Licensing Authority for a variation of a premises licence.
- 1.2 Section 35(3) of the Licensing Act 2003 states that where relevant representations are made in respect of 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) of the Licensing Act 2003 are:
- a) to modify the conditions of licence
 - b) to reject the whole or part of the application

and for this purpose the conditions of the licence are modified if any of them are altered or omitted or any new condition is added.

2. REPORT

- 2.1 Fletchers Arms, 445 Stockport Road, Denton, M34 6EG is a licensed premises. A site plan, including up-to-date photographs of the premises, is attached at **Appendix 1**.
- 2.2 Fletchers Arms has been a Licensed Premises since 10 November 2005. Frederic Robinson Ltd has been the Premises Licence Holder since the licence was granted. A copy of the Premises Licence is attached at **Appendix 2**.
- 2.3 On 1 August 2005, an application was received by the Licensing Authority for an existing licence to be converted to a premises licence under the Licensing Act 2003 along with an application to vary the licence. A Panel hearing was held for these applications on 26 September 2005 following two representations from members of the public and one from Environmental Health. In addition, existing planning permission was considered at this time. Two conditions related to noise were added to the licence following this hearing. A copy of the planning permission document and the panel hearing outcome letter is attached at **Appendices 3 and 4**.
- 2.4 On 26 June 2023, Frederic Robinson Ltd submitted an application to vary the Premises Licence for the Fletchers Arms. The Applicant is seeking to update the plans that accompany the premises licence to reflect alterations that are being made to the internal layout of the site. These alterations involve the relocation of the bar to the wall abutting the rear beer garden area. In moving the bar, the entrance/exit to the beer garden will also be moved to the fire exit next to the toilet area on the premises. This existing fire door is being extended from a single door to a double door in order to meet fire regulations.
- A copy of this application and the updated site plan is attached at **Appendix 5**.
- 2.5 In addition to the alterations to the site plan, the applicant is seeking to remove some conditions from the operating schedule and replace them with alternative conditions. A summary is provided in the table below:

Conditions to be removed	Conditions proposed
A sign will be displayed on the premises indicating the normal hours during which the sale of alcohol is permitted	The Challenge 25 policy is in operation so that if a customer purchasing alcohol appears to be under the age of 25, they will be asked for proof of their age, to prove that they are at least 18 years of age. The only forms of identification that will be accepted will bear their photograph, date of birth and a holographic mark and/or ultraviolet feature. Such examples of appropriate identification include a passport, photocard driving licence, military ID and Home Office approved proof of age ID card bearing the PASS hologram.
All fire doors will be maintained effectively self closing and shall not be held open other than by approved devices	
Notices detailing the actions to be taken in the event of fire or other emergencies, including how the fire brigade shall be summoned, are to be prominently displayed	
No one under the age of 18 will be allowed to enter or remain on the premises after 22:00 save on Christmas Eve and New Years Eve	

2.6 Five conditions have been proposed by the Licensing Authority but have not yet been accepted. A copy of these conditions is attached at **Appendix 6**.

3. REPRESENTATIONS & EVIDENCE SUBMITTED

Members of the Public

3.1 A representation has been received from 1 member of the public raising concerns with regards to the entrance/exit into the beer garden area being moved. This representation is attached at **Appendix 7**.

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 Section 182 of the Licensing Act 2003. The statutory guidance includes the following:

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 modify the conditions of the licence
 - b) To reject the whole or part of the application