

Report to:	SPEAKERS PANEL (LIQUOR LICENSING)
Date:	22 August 2023
Reporting Officer:	Emma Varnam – Assistant Director, Operations & Neighbourhoods
Subject:	APPLICATION FOR A NEW PREMISES LICENCE – VALE MILL LODGE, HUDDERSFIELD ROAD, MOSSLEY, OL5 9LL
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> <p>(a) to grant the licence subject to –</p> <ul style="list-style-type: none"> (i) such conditions that the authority considers appropriate for the promotion of the licensing objectives, and (ii) current mandatory conditions; <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>
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)	<p>In determining the application the Panel must do so with a view to promoting the licensing objectives. The Panel must have regard to its own licensing policy and the Guidance issued pursuant to s182 Licensing Act 2003. The Panel's decision must be supported with reasons.</p> <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. 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</p>

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 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 An application for a new premises licence at Vale Mill Lodge, Huddersfield Road, Mossley, OL5 9LL was received by the Licensing Office on 6 July 2023. The named applicant and proposed Designated Premises Supervisor (DPS) is Mr Alexander Smalley.
- 2.2 A location map, including photograph of the premises is attached at **Appendix 1**.
- 2.3 The original application is seeking the authorisation of licensable activities, namely the provision of sale of alcohol and recorded music.

The application is summarised as follows:

Supply of alcohol (Consumption on & off the Premises)

Sunday - Friday 10:00 – 23:00

Saturday 10:30 – 23:00

Playing of Recorded Music (Indoors)

Monday - Sunday 10:00 - 23:00

Premises Opening Hours

Monday - Sunday 10:00 – 23:00

A copy of the application is attached at **Appendix 2**.

- 2.4 During the consultation period, it came to the attention of the Licensing Authority that the Public Notice displayed on the premises advertising the application, did not detail the provision of Recorded Music. Therefore, the applicant has agreed to remove this licensable activity from the scope of the application.
- 2.5 In response to the application, the Licensing Authority received representations from a number of concerned resident residing in the immediate vicinity of the premises. The representation mainly relate to concerns regarding the prevention of public nuisance, which

is feared will cause severe inconvenience and nuisances to residents living nearby and will negatively impact on their lives.

- 2.6 Many of the representations also raise concerns about public safety in relation to the availability of parking and the problems that this could cause on Huddersfield Road and the surrounding area.
- 2.7 In addition to the concerns from the local residents, the Licensing Authority is also not satisfied that the licensing objectives will be promoted if alcohol is sold for consumption in the outside area identified on the plan. This is because the area is extremely close to Tudor Close, a cul-de-sac of residential properties and it is felt that the concerns regarding noise will be exacerbated if customers are drinking alcohol outside. Further, there is a public footpath which runs through the proposed outside seating area.
- 2.8 On 10 August 2023, James Horton (Regulatory Compliance Officer) and Mike Robinson (Regulatory Services Manager) attended a mediation meeting held by the applicant at Vale Mill Lodge. Local residents who submitted a representation also attended the meeting. The meeting was arranged to enable those who have submitted a representation to discuss their concerns in relation to the application. At the time of writing the report, no representations have been withdrawn following the mediation meeting.
- 2.9 Many of the representations from the residents refer to queries regarding planning permission for the building. The Planning Department have confirmed that the building has the relevant planning permission (Use Class E) for a pizza restaurant. The building was previously used as office space (also Class E).
- 2.10 Use class E was introduced on 1 September 2020 and covers the former use classes of A1 (shops), A2 (financial and professional), A3 (restaurants and cafes) as well as parts of D1 (non-residential institutions) and D2 (assembly and leisure) and condensed them all into one use class.
- 2.11 Following the representations which have been received by the applicant and the mediation meeting, the applicant has agreed to the following conditions:

Conditions agreed	Amendment to licensable activities
<p><u>CCTV</u></p> <p>(i) A tamper-proof digital colour CCTV system must be installed and maintained at the premises to the satisfaction of Greater Manchester Police.</p> <p>(ii) The system must run and record continuously for 24 hours a day, 7 days per week and recorded footage must be stored for a minimum of 28 days.</p> <p>(iii) The system must provide a clear head and shoulders view to an evidential quality on every entry/exit route, the external beer garden area and within any other vulnerable areas as identified by Greater Manchester Police or the Local Authority.</p>	<p>Supply of Alcohol permitted from 10:00hrs-21:00hrs (Monday, Tuesday, Wednesday and Sunday)</p> <p>Supply of Alcohol permitted from 10:00hrs-23:00hrs (Thursday, Friday and Saturday)</p>

(iv) Recorded footage must be provided to a representative of any responsible authority on request. Such footage must be provided in an immediately viewable format and must include any software etc. which is required to view the footage. Any discs, portable drives or other storage media onto which footage is transferred must be provided by the premises and sufficient stock of such storage media must be kept on the premises at all times.

(v) A member of staff who is trained to operate the system and supply footage must be present at the premises at all times when licensable activities are taking place.

(vi) The Designated Premises Supervisor must ensure that the CCTV system is checked at least once every week by a suitably trained member of staff. This check must include the operation of the cameras, the recording facilities, the facilities for providing footage and the accuracy of the time & date. A written record of these checks must be kept, including a signature of the person carrying out the check. This written record must be kept on the premises at all times and made available to a representative of any responsible authority on request.

(vii) Suitable signage informing customers that a CCTV system is in operation must be placed in prominent positions within the premises, including information on the Data Protection Act and the Human Rights act.

List of Authorised Persons

The Designated Premises Supervisor must maintain a written record of all members of staff who are authorised to sell alcohol. This record must include a photograph of the relevant members of staff to be kept on the premises at all times and be made available to a representative of any responsible authority on request.

Challenge 25

The premises must operate a "Challenge 25" scheme at the premise in relation to age verification for alcohol sales and other age-restricted products. Signs and/or

posters must be displayed in prominent positions inside the premise to inform customers of this condition.

Staff Training

Any staff employed at the premises will receive training by the Premises Licence Holder or Designated Premises Supervisor on first appointment and at least every three months thereafter. Training will include input on preventing underage sales, sales of alcohol to people who are drunk, the misuse of drugs and any other relevant matters.

- A written record will be kept of all training carried out. This record must be kept on the premises and made available for inspection by any responsible authority.

Incident Book

An incident book (with the pages numbered sequentially) must be kept on the premises and be made available for inspection by responsible authorities and must be used to record the following:

- i. Any incident of violence or disorder on or immediately outside the premises.
- ii. Any incident involving controlled drugs (supply / possession / influence) on the premises.
- iii. Any other crime or criminal activity on the premises.
- iv. Any refusal to serve alcohol to persons who are drunk (on sale and off sale premises only).
- v. Any refusal to serve alcohol to under 18s.
- vi. Any call for police assistance to the premises.
- vii. Any ejection from the premises.
- viii. Any first aid / other care given to a customer.

Noise Monitoring

The licensee or management shall undertake regular monitoring of noise levels at the nearest noise-sensitive locations on Tudor Close and Huddersfield Road. A record shall be kept of any monitoring, including the time, date

and location of monitoring; the name of the monitor; and any action taken. Records shall be kept for no less than six months and shall be made available upon request by any Local Authority Officer or Greater Manchester Police.

Notice to Customers

Notices requesting customers to leave quietly must be displayed in a prominent position next to each entrance/exit. The Designated Premises Supervisor must ensure that customers are encouraged to keep noise to a minimum when leaving the premises so as not to cause a nuisance to local residents. In order to minimize the risk of public nuisance the management of the premises must monitor customers smoking outside the premises and ensure patrons do not cause a public nuisance.

Signage relating to the provision of parking to be clearly displayed on the website / social media and at the premises.

Restaurant Condition

Alcohol shall only be served ancillary to a table meal (including pizza) in the restaurant

3. REPRESENTATIONS & EVIDENCE SUBMITTED

Representations have been received by TMBC Licensing and members of the public.

TMBC Licensing

3.1 A representation relating to the application has been provided by James Horton of TMBC Licensing. A copy of this is attached at **Appendix 3**.

3.2 Members of the Public

Representations have been received from 16 members for the public. These representations are attached at **Appendix 4 to 19**.

3.3 A map showing the premises together with a key identifying the properties that have submitted a representation is attached at **Appendix 20**.

4. HOME OFFICE GUIDANCE (S182 Licensing Act 2003)

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.