

Report to: Licensing Act 2003 Committee

Date: 5th October 2021

Report of: Director of Place

Report No: LSC/22/2021

Contact Officer: Licensing Officer

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Report Title: Review of a premises licence following a summary review application

Non-Confidential

This report does **not** contain information which warrants its consideration in the absence of the press or members of the public.

Purpose:

To invite the Committee to consider an application to review a premises licence under the provisions of section 53C of the Licensing Act 2003 following a summary review application.

Recommendations:

No recommendations

Background Doc(s):

Bolton MBC Statement of Licensing Policy
Violent Crime Reduction Act 2006
Licensing Act 2003 and Section 182 Guidance

Appendix 1 – Review application and Superintendent certificate
Appendix 2 – Premises Licence

Summary:

No summary

Licensing Act 2003 - Hearing of an Application to Review a Premises Licence following a summary review application

1. Background

1. The Licensing Act 2003, which consolidated six licensing regimes in a single statute, and which replaced the previous controls on the sale of alcohol under the provisions of the Licensing Act 1964, introduced the concept of the 'premises licence'.
2. A premises licence is required for any venue where any 'licensable activity' is carried on. Such activities include the sale or supply of alcohol, the provision of regulated entertainment and the provision of late-night refreshment etc.
3. All pubs, nightclubs, private members clubs, off licences, cinemas, theatres and late-night takeaways etc. require a licence.
4. The government included a very clear presumption in favour of businesses in the Licensing Act 2003 since the Act requires that any application should be granted on the terms on which it is applied for unless any valid representation is made.
5. Where representations are made, the Act suggests that the Licensing Authority can apply 'light touch' regulation.
6. This approach is 'balanced' in the Act by provisions which permit a premises licence to be 'reviewed' by the Licensing Authority, upon receipt of a valid application for review from an interested party or responsible authority.
7. The Violent Crime Reduction Act 2006 introduced new provisions into the Licensing Act 2003 by permitting the Licensing Authority to consider taking 'interim steps' where an application to review a licence was made in accordance with Section 53A of the Licensing Act 2003 (a section added by the Violent Crime Reduction Act 2006). An application under Section 53A must include a 'Certificate' from a Senior Police Officer which confirms that, in the opinion of the Senior Police Officer, the premises in question are associated with serious crime, serious disorder or both.
8. Section 53A enables the Licensing Authority to deal with the matter quickly and an application made under the provisions of the section must be brought to a hearing of the Licensing Authority within 48 hours.
9. The application is advertised on the premises and at the offices of the Licensing Unit, is circulated to responsible authorities and must be reviewed at a full hearing, convened by the Licensing Authority under the provisions of section 53C of the Act within 28 days, when any other representations may be considered.
10. A summary hearing considers only the application from the Police, other responsible authorities, and members of the public or businesses in the area where the premises to which the review application relates is situated, or their representatives, can make representations, which must be considered as part of the full review hearing.
11. Such representations are only valid where they relate to one of the four licensing objectives, namely:
 - a) the prevention of public nuisance
 - b) the prevention of crime and disorder
 - c) ensuring public safety
 - d) protection of children from harm

All review applications must be considered in the light of the four licensing objectives (above) and the Bolton MBC Statement of Licensing Policy.

2. The summary review application

1. The Greater Manchester Police have applied for a summary review of a premises licence.
2. The application submitted under section 53A of the Licensing Act 2003, relates to the premises licence held by Mr Macauley Stephens, for premises trading as Luxe Lounge, 25 Bradshawgate, Bolton.
3. The Licensing Authority received the application on 3rd September 2021 and has accepted that it is valid.
4. The application for the review relates to the 'prevention of crime and disorder' one of the four licensing objectives. The application is made by the Police on the grounds that the premises are associated with serious crime.
5. Attached to the application is the chief police officer's certificate. This has been signed by Superintendent Parker. The certificate confirms that in their opinion the premises in question are associated with serious crime.
6. A copy of the application form and Superintendent's certificate is attached to the report at **Appendix 1**.
7. Included in the application form are details of the association with serious crime and this information is reproduced below:

At around 01:30 hours on Thursday 2nd September 2021 the offence engages in altercation with the victim's in licensed premises. The offender punches one victim to the face causing him to stumble backwards. The offender punches the second victim to the left side of his face using right fist. This victim falls to the ground and becomes unresponsive.

The Offender makes off from the scene.

The victim is taken to hospital where his life is pronounced extinct.

This expedited review has been requested following an incident of serious crime at the premises known as " LUXE LOUNGE ", 25 BRADSHAWGATE, BOLTON BL1 1EL.

The incident took place at around 01:30 hours on the morning of Thursday 2nd September 2021. This application has been authorised by Supt Parker a senior officer of Greater Manchester Police.

LUXE LOUNGE is a venue in Bolton Town centre with a current premises licence allowing the premises to operate as late as 04:00 hours 7 days a week. The premise's has operated as Luxe Lounge since March 2020.

The premises benefits from its prime location in the town centre, being in the busiest area of town.

The circumstances

The evening of Wednesday 1st September 2021 was advertised across social media as the best student night in Bolton!

Open from 10pm!

There are two victims in this incident, one of whom has lost his life as a direct result.

CRI/06KK/0026210/21 - Sec 47 assault occasioning actual body harm.

CRI/06KK/0026219/21 - Murder.

At around 01:30 hours on Thursday 2nd September 2021 the offender engages in altercation with the victim's in licensed premises. The offender punches one victim to the face causing him to stumble backwards. The offender punches the second victim to the left side of his face using right fist. This victim falls to the ground and becomes unresponsive.

The Offender makes off from the scene.

The victim is taken to hospital where his life is pronounced extinct.

Summary

The premise's operates as a late bar, currently opening from approximately 22:00 hours until 04:00 hours. The very nature of this type of premises means that many customers are already suffering the effects of alcohol as they arrive.

As a result the risk of incidents at Luxe Lounge is high and management and staff must have a pro-active and stringent operating schedule in order to promote the four licensing objectives and ensure safety of their customers.

Due to the severity of this crime resulting in a young man losing his life I respectfully ask the committee gives consideration to suspending the premises licence until such time a full review of the premises licence can be heard.

8. The review notice required by the Licensing Act 2003 has been displayed at Luxe Lounge, 25 Bradshawgate, Bolton and at the offices of the Licensing Authority. No further representations have been received.
9. A meeting of the Licensing Authority took place on 6th September 2021. This meeting considered if interim steps were necessary. Both the Police and premises licence holder were invited to attend this meeting.

3. Consideration of interim steps- 6th September 2021

The Director of Place submitted a report which provided details of an application for an expedited review of the Premises Licence in respect of Luxe Lounge, 25 Bradshawgate, Bolton pursuant to the provisions of Section 53A(1) of the Licensing Act, 2003.

The purpose of the hearing was to consider whether it was necessary for the Licensing Authority to take interim steps following an incident of serious crime at the venue pending the final determination at a review hearing.

The Sub-Committee was apprised of all the evidence and submissions

Representations were put forward by Greater Manchester Police who had served an application for a summary review of the Premises Licence. This had been accompanied by the required certificate signed by Superintendent Parker which certified that in the officer's opinion, the premises were associated with serious crime.

PC Brookfield presented the case for Greater Manchester Police and referred to the incident that had occurred at the venue at approximately 01.30 hours on Thursday, 2nd September, 2021 where two men had been assaulted resulting in serious bodily harm to one victim and the death of another victim. He explained that he had held discussions with the licence holder Mr Stephens immediately following the incident who had expressed a willingness to assist the Police in any way he could.

Mr Stephens, the Licence Holder, attended the meeting and expressed his sorrow at the incident. He explained that he had been operating the premises since March 2020 and had no previous incidents. He assured members he was a responsible licence holder and that staff at the premises had followed all the correct procedures before and after the incident.

Mr Stephens explained that he was willing to assist the Police in any way he could to ensure that the premises operated as safely as possible. He had already had discussions with his security company and was intending to implement the following measures as soon as possible:

- a metal detection wand;
- body cams;
- the appointment of additional door supervisors;
- strict dress code for entry; and
- becoming a member of the Pubwatch Scheme.

The Sub-Committee gave careful consideration to all the submissions.

In coming to its decision in relation to this expedited review, the Sub-Committee took account of guidance relating to HM Government's Licensing Act, 2003 including the guidance on Summary Reviews. The Sub-Committee specifically bore in mind the licensing objective of the prevention of crime and disorder and took account of Bolton Council's Licensing Policy and the Guidance published by the Secretary of State under Section 182 of the 2003 Act and the non-statutory guidance issued in respect of this type of application.

Resolved – That no further action be taken in relation to the licence at Luxe Lounge, 25 Bradshawgate, Bolton pending the full review at a forthcoming meeting of this Sub-Committee within 28 days.

4. Current permissions

1. The premises licence currently in force at the premises authorises the following activities:

Performance of Live Music

Monday – Sunday 11:00-03:30

Playing of recorded music (indoors)

Monday – Sunday 11:00-03:30

Late Night Refreshment (indoors and outdoors)

Monday – Sunday 23:00-03:30

Sale by retail of alcohol for consumption ON the premises

Monday – Sunday 23:00-03:30

2. A copy of the current premises licence, which details the timings and conditions consistent with the operating schedule, is attached to the report at **Appendix 2**.

5. Premises – Description & History

1. The venue is situated on Bradshawgate in Bolton Town Centre. Luxe Lounge is one of the main late venues in Bolton Town Centres night-time economy.
2. The photographs below provide the Committee with an indication of the character of the locality:

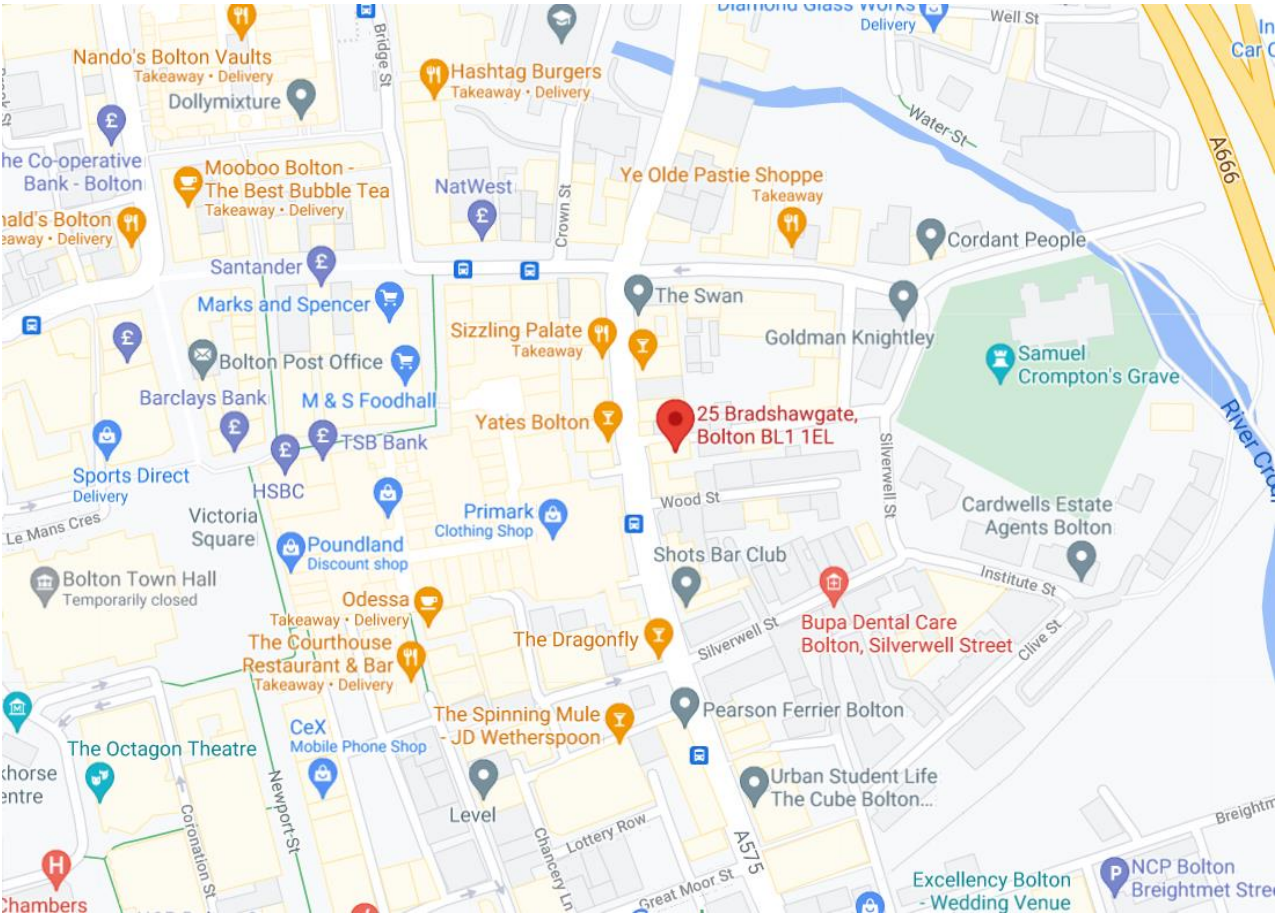
View of the premises:

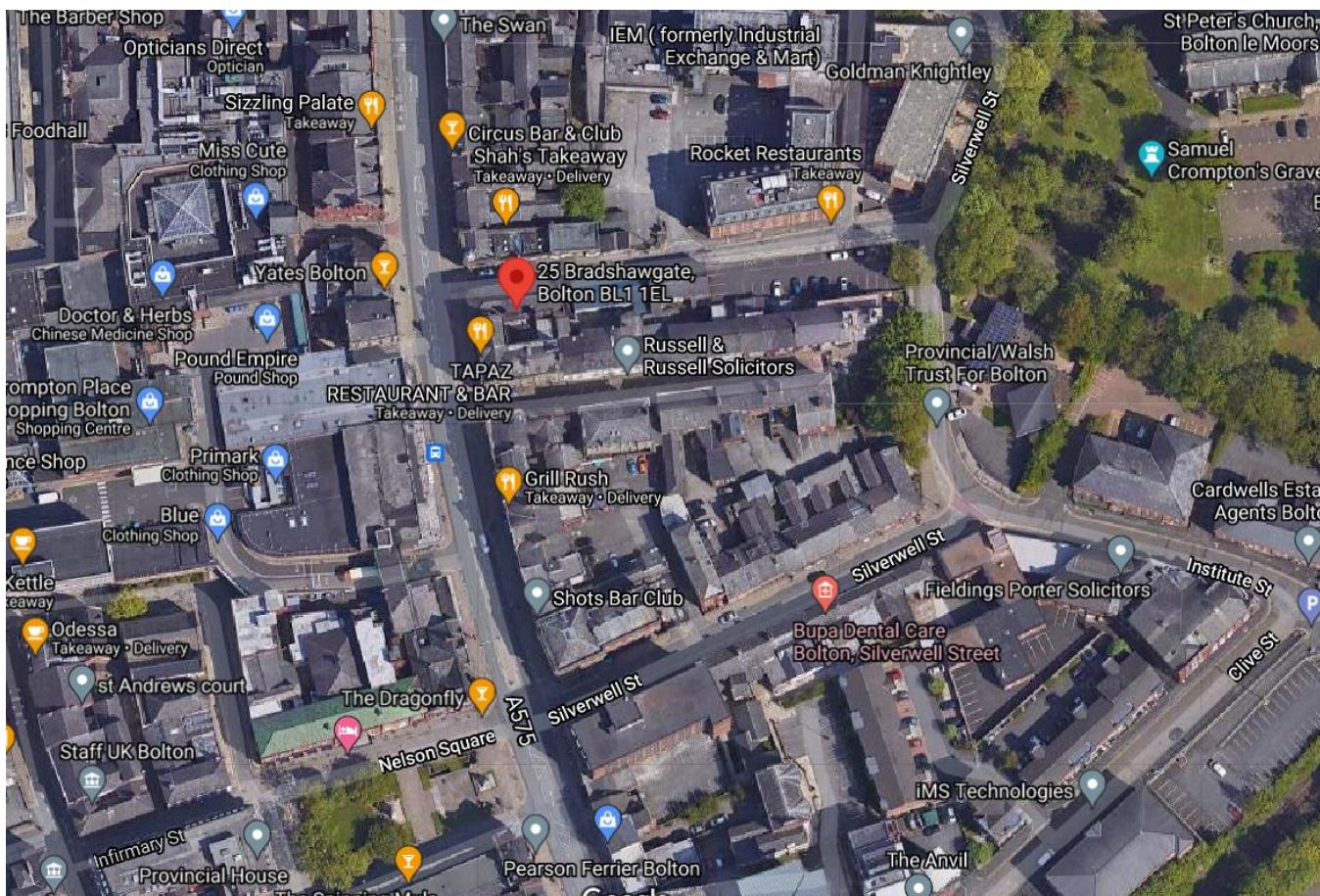


View looking down Princess Street:



Location map:





6. The full review hearing

1. Section 53C of the Licensing Act 2003 requires the licensing authority to hold a review hearing to consider the review application and any other relevant representations.
2. No further representations have been received.
3. The Sub-committee is to take such steps as it considers necessary to promote the licensing objectives.
4. The Sub-committee is to ensure that any 'interim steps' (detailed in paragraph 4 above) which were put in place pending the determination of this review, cease (except where those steps are continued as a result of the decision of the full review hearing)
5. The steps which the Sub-committee should consider taking (if any) are:
 - (a) the modification of the conditions of the premises licence;
 - (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
 - (c) the removal of the designated premises supervisor from the licence;
 - (d) the suspension of the licence for a period not exceeding three months, or
 - (e) the revocation of the licence

Note:

- (i) For the purposes of paragraph 4(a) above the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added.

- (ii) Members are reminded that the Licensing Act requires that certain conditions should be included on premises licences and cannot be modified.
- (iii) Where the Sub-committee takes a step included in paragraph 4(a) or 4(b) above it *may* provide that the modification or exclusion is to have effect only for a specified period (not exceeding three months).
- (iv) The decision of the Sub-committee does not have effect until the end of the period during which an appeal against it can be lodged or, where an appeal is lodged, until it has been disposed of.