

## TRAFFORD COUNCIL

**Report to:** Licensing Sub-Committee  
**Date:** Thursday 7<sup>th</sup> September 2023  
**Report for:** Decision: Determination of Application  
**Report of:** Head of Regulatory Services

### Report Title

**APPLICATION FOR THE GRANT OF A NEW PREMISES LICENCE UNDER S17 LICENSING ACT 2003 AT BAR ON WHEELS LTD, UNIT C39 EASY ACCESS SELF STORAGE, BARTON DOCK ROAD, TRAFFORD, MANCHESTER M41 7ZA**

### Summary

Under S18(4) of the Licensing Act 2003, Members are requested to determine an application for a new premises licence in respect of Bar On Wheels, Unit C39 Easy Access Self Storage, Barton Dock Road, Trafford, Manchester M41 7ZA having regard to representations received and the requirement to promote the four licensing objectives.

### Recommendation(s)

The following options are open to the Licensing Sub-Committee;

- (i) To accept or reject the representation by Yauvan Patel in accordance with section 18(7)(c) of the Licensing Act 2003.
- (ii) To grant the application in full and on the terms and conditions contained within the application to include any applicable mandatory conditions.
- (iii) To grant the application as above, modified to such an extent as considered appropriate to satisfy any relevant representations and promote the licensing objectives; or
- (iv) To reject the application.

### Contact person for access to background papers and further information:

**Name:** Ursula Crotty, Licensing Officer.  
**Contact:** Licensing@trafford.gov.uk

**Background Papers:** None.

**Appendices:** A) Application for a New Premises Licence  
B) Photograph of Blue Notice & Copy of Newspaper Advert  
C) Representation from Environmental Health  
D) Representation from individual

## **1.0 APPLICATION**

1.1 A premises licence is required in respect of any premises where it is intended to conduct one or more of the four licensable activities, these being:

- The sale of alcohol
- The supply of alcohol (in respect of a club)
- Regulated entertainment
- The provision of late night refreshment

This application was submitted by: Bar On Wheels Ltd, 73 Garrett's Meadow, Tyldesley, Manchester M29 8SD

1.2 The applicant has applied for the following hours:

### **Alcohol – Off sales only**

Monday - Sunday 00:00 - 23:59

1.3 The application has been properly made and all procedures correctly followed. The application including operating schedule has been attached as **Appendix A**. Photographs of the blue notice in place and copy of newspaper advert are attached as **Appendix B**.

## **2.0 BACKGROUND AND HISTORY OF PREMISES**

2.1 This is a new application in respect of the premises at Unit C39, Easy Access Self Storage, Barton Dock Road, Trafford M41 7ZA in circumstances where the premises have not previously had the benefit of a premises licence.

## **3.0 OPERATING SCHEDULE**

3.1 The operating schedule is completed by the applicant and contains additional measures to illustrate how they propose to promote the four licensing objectives as required by provision of the Licensing Act 2003. They are listed below and will be attached as conditions to any licence as may be granted:

1. No sales of alcohol may be made directly to the public from the premises.
2. No members of the public shall be permitted access to the premises to purchase alcohol.
3. No promotional social media communication may be carried on for the purpose of encouraging the sale or supply of alcohol at the premises or in relation to the business operation, which can reasonably be considered to condone, encourage or glamorise antisocial behaviour or to refer to the effects of drunkenness in any favourable manner.

4. Delivery drivers shall conduct the delivery in a manner that will not cause a noise disturbance to the occupiers of any residential properties surrounding the delivery address. This includes the avoidance of slamming doors, playing loud music, shouting, over-revving engines and sounding horns to signal their arrival.
5. The driver shall turn the engine off immediately upon arrival at the delivery address and will park considerately without causing any obstruction to the highway.
6. All deliveries of alcohol shall only be delivered to a premises address with a valid postcode and will only be delivered directly to that property.
7. The Challenge 25 scheme must be operated to ensure that any person who appears to be under the age of 25 shall provide documented proof that he/she is over 18 years of age.
8. Proof of age shall only comprise a passport, photo card driving licence, an EU/EEA national ID card or similar document, an HM Forces warrant card, a card bearing the PASS hologram, or any electronic or biometric age verification technology approved by the licensing authority.
9. To ensure that persons purchasing alcohol via the on-line platform are over the age of 18, the company shall ensure that customers are aware that proof of ID will be a condition of sale and must be provided prior to receipt of any alcohol, delivery drivers will be instructed to ensure that the end consumer is the same individual that placed the order or no delivery shall take place.
10. All members of staff shall receive alcohol related training which shall include Challenge 25 and recognizing signs of intoxication. The training shall be recorded and retained by the licence holder and must be made available to authorised officers on request. Refresher training must be carried out every six months.
11. Any promotional material and/or any website home page used as part of the business operating under this licence will clearly state the premises licence number. For the avoidance of doubt, this includes flyers, leaflets and business cards promoting the business.
12. Age Verification Policy - On & Off Age Verification Policy (applies for the sale or supply of alcohol On or Off the premises)
  - (i) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (ii) The designated premises supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - (iii) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:-
    - (a) a holographic mark or
    - (b) an ultraviolet feature.

## **4.0 CONSULTATION**

- 4.1** The responsible authorities included in consultation are; Greater Manchester Police, Greater Manchester Fire & Rescue, Environmental Health & Pollution Control, Building Control, Health and Safety Team, Home Office Immigration Enforcement, Planning Department, Safeguarding Children Team, Trading Standards and Public Health.
- 4.2** Of those consultees identified in paragraph 4.1, a representation was received from Elizabeth Pritchard, a Trading Standards Officer, in relation to public safety attached as **Appendix C**.
- 4.3** A further representation was received by email from an individual who does not supply an address which alleges that the proposed designated premises supervisor (DPS) has a conviction for selling alcohol to children which is attached at **Appendix D**. The sub-committee is invited to consider whether or not this representation is frivolous or vexatious on the grounds that:
- 4.3.1 The objector does not provide an address or details of where the alleged under-age sales took place;
- 4.3.2 The allegation is inconsistent with the proposed DPS being granted a personal licence by Wigan MBC in August 2023 in circumstances where a conviction for an offence of selling alcohol to children must have been taken into account by Wigan Council in determining whether or not the applicant for a personal licence pursuant to section 113 and schedule 4 of the Licensing Act 2003.
- 4.3.3 That the Chief Constable has not made a representation in accordance with section 18(9) of the Licensing Act 2003 that the appointment of the proposed DPS would undermine the crime prevention objective.
- 4.3.4 There is no corroborative information to support the allegation.
- 4.4** A representation may be deemed frivolous or vexatious pursuant where it has been made by an individual pursuant to section 18(7)(c) of the Act where the representation does not have any serious purpose or value or where the application is brought without sufficient grounds for winning, purely to cause annoyance to the other party
- 4.5** In the event the sub-committee determines the representation to be vexatious, it cannot be considered further and should be disregarded.
- 4.6** The High Court has directed in *Retrobars Wales Ltd v Bridgend Borough Council* [2013] EWHC 2174 (Admin) that a court can make an enquiry into the fitness and propriety of a DPS of its own motion, without any direction from the Chief Constable.
- 4.7** A copy of the report and the representations received have been sent to the applicant.

- 4.8** Those that have made a representation have been informed of the time and date of the Licensing Sub-Committee meeting and have been informed of their right to attend.

## **5.0 LEGAL CONSIDERATIONS**

- 5.1** Conditions may only be attached to a Premises Licence where they are deemed appropriate for the promotion of the licensing objectives. They must be proportionate and not duplicate any existing provisions contained in other legislation. The justification behind a refusal or the attachment of conditions must be given to the applicant.
- 5.2** The Sub-Committee is advised that any findings on any issues of fact should be on the balance of probabilities and any decision should be based on the individual merits of the application.
- 5.3** The Sub-Committee, in arriving at its decision; must have regard to relevant provisions of national guidance and its own statement of licensing policy and reasons should be given for any departure.
- 5.4** There is a right of appeal to the Magistrates Court within 21 days from the date the Applicant is notified of the decision of the Licensing Sub-Committee.