

REPORT: Regulatory Sub-Committee

DATE: 25 September 2024

REPORTING OFFICER: Director – Legal and Democratic Services

PORTFOLIO: Resources

SUBJECT: Application for to Vary a Premises Licence – Banksey’s Bar, 75 Albert Road, Widnes, WA8 6JS

WARDS: Appleton

1. PURPOSE OF REPORT

To assist Members of the Regulatory Committee in their consideration of an application by Miss Bethany Christine Owens for the variation of a premises licence for Banksey’s Bar, 75 Albert Road, Widnes, WA8 6JS.

2. RECOMMENDATION that

The committee considers the contents of the report and makes a determination on the application.

3. BACKGROUND INFORMATION

- 3.1 The premises is situated on the corner of Albert Road/Ross Street in Widnes Town Centre. It is surrounded by commercial premises, including Wetherspoons, and is located in close proximity to residential premises on Ross Street. A copy of a plan is attached at **Appendix A**.
- 3.2 The premises has been a licensed premises since 24 November 2005 and, overtime, it has been known as Tony’s Bistro, Meloni’s, Goodfellas and, more recently, Annie’s Bar. Annie’s Bar held a licence from 9 September 2019 until it was surrendered on 12 January 2023.
- 3.3 The current premises licence was granted on the 25 August 2023 and is now known as Banksey Bar.
- 3.4 There are several licensed premises on Albert Road and the surrounding area, attached at **Appendix B** of this report is the

list of all the licensed premises including the hours open to the public and walking distance from this premises.

- 3.5 Attached at **Appendix C** of this report is the current premises licence along with the current conditions on the licence.
- 3.6 The application is looking to increase the hours on the premises licence in the terms set out below.

4. THE APPLICATION

- 4.1 The application has been made under section 34, of the Licensing Act 2003 (“the Act”).
- 4.2 A copy of the application can be found at **Appendix D**.
- 4.3 According to the application, the applicant seeks:

Hours open to the Public	Monday to Thursday 11.00 to 00.30 and Friday & Saturday 11.00 to 01.30 and Sunday 11.00 to 00.30
Supply of alcohol	Monday to Thursday 11.00 to 00.00, Friday & Saturday 11.00 to 01.00 and Sunday 11.00 to 00.00
Live & Recorded Music	Monday to Thursday 11.00 to 00.00 and Friday & Saturday 11.00 to 01.00 and Sunday 11.00 to 0.00
Performance of Dance	Monday to Thursday 11.00 to 00.00 and Friday & Saturday 11.00 to 01.00 and Sunday 11.00 to 0.00
Anything Similar to live music and recorded music	Monday to Thursday 11.00 to 00.00 and Friday & Saturday 11.00 to 01.00 and Sunday 11.00 to 0.00
Late Night Refreshment	Monday to Thursday 23.00 to 00.00, Friday & Saturday 23.00 to 01.00 and Sunday 23.00 to 00.00

4.4 The applicant would also like to amend the licence to allow underage patrons to allow them to be served meals from 11.00 to 20.00

4.5 In respect of anything similar to live music and recorded music the applicant has confirmed that this will be provided by a juke box and karaoke, both of which will take place indoors. This is also the case for late night refreshment. Equally, the applicant only seeks the supply of alcohol on the premises, meaning that no off-sales will not be licensed.

4.6 Within the operating schedule set out in Part 3 of the application, the applicant has set out the steps they intend to take to promote the four licensing objectives. These include:-

- CCTV Recording at all times;
- Forms of ID accepted will be approved by Police or other Responsible Authorities;
- Challenge 25 Policy;
- Regular toilet checks;
- Regular staff training;
- A search policy for drugs and weapons;
- Last entry to the premises will be 30 minutes before terminal hour;
- First aid on premises;
- Only toughened glass to be used and no glasses outside the premises
- Notices will be displayed asking patrons to respect neighbours;
- All windows to be closed at 23:00 hours
- Noise levels to be monitored at all times.
- No nudity or semi nudity at any times
- All children to be off premises at 20.00

4.7. These steps will form the basis for conditions on the licence.

5. REQUIREMENT FOR A HEARING

5.1 The application was submitted on 31 July 2024 and was advertised in the local newspaper on 5 August 2024. Officers have confirmed that the advertisement requirements were complied with.

5.2 During the 28 days representation period, the Licensing Authority received relevant representations from the five local residents and one Ward Councillor as detailed below.

- 5.4 Where relevant representations have been made and not withdrawn, the licensing authority must hold a hearing to consider them (unless otherwise agreed by the parties).
- 5.5 The hearing is held in accordance with the Act and the Licensing Act 2003 (Hearings) Regulations 2005. The procedure to be followed has been circulated to all parties and will be repeated at the beginning of the hearing.
- 5.6 The hearing is solely concerned with those aspects of the application, which has been the subject of the relevant representations as defined in the Act. These are the representations made by the four residents and one Ward Councillor
- 5.7 At the time of writing this report I have not received any indication from Environmental Health, Residents or the Ward Councillor if they will be making any submissions to the Sub-Committee at the hearing. All parties have all been informed of the hearing.

6. THE REPRESENTATIONS

6.1 RESPONSIBLE AUTHORITIES

Cheshire Police

Relevant representations have been received from Cheshire Police

The Police have asked for the following condition to be added to the premises licence

Children are only permitted to use the premises when they are having a table meal, and they must be accompanied by a responsible and appropriate adult at all times.

The condition has been accepted by the applicant.

Environmental Health

Environmental Health has no objection to the licence application, in principle, but they have made the following:

Environmental Health have not received any complaints from residents In the 12 months that Banksey's bar has been operation. However we are concerned of the potential for noise nuisance from this premises given its location from a

residential street and the extended hours in which they now intend to operate.

It isn't clear from the application if they intend to play live & recorded music up until their other licensable activities end (midnight midweek / 1am weekends) or half an hour later when the premises closes. In either event though this would now go beyond the 11pm limit which would be permitted by the Live Music Act on all nights.

At the previous committee hearing Environmental Health wished to see that professionally installed & calibrated sound limiter was installed at this premises so that the likelihood of noise nuisance occurring was reduced. However this was argued against by the applicants representatives who felt it was an unreasonable burden for a new business. Given that they have now been trading for one year, I do not believe this can still be argued.

I Would therefore request that the following condition is added to the licence;

- *A sound limiter shall be professionally installed at the premises and remain in operation at all times whilst regulated entertainment is taking place.*

6.2 ANY OTHER PERSON

Five representations have been received from local residents and one Ward Councillor who object to the variation of a premises licence on all 4 licensing grounds, with the main issue being the hours of operation and likelihood of noise nuisance and anti social behaviour. A copy of the objections can be found at **Appendix E** of this report.

6.3 EVIDENCE

In accordance with the normal procedure, it is noted that the relevant representations do not amount to evidence. The objectors have been requested to supply the evidence they intend to rely on no later than 5 working days prior to the hearing. When received this will be forwarded to the applicant and members of the committee.

7. LEGAL AND POLICY FRAMEWORK

- 7.1 The Sub-Committee must determine the application with a view to promoting the licensing objectives which are:

- The prevention of crime and disorder;
- The prevention of public nuisance;
- Public Safety;
- The protection of children from harm.

7.2. In making its decision, the Sub-Committee must also have regard to the national guidance issued under section 182 of the Licensing Act 2003 (“the Guidance”) and the Council’s Statement of Licensing Policy (“Policy”).

7.3 Relevant sections from the Guidance can be found at **Appendix F**.

7.4 Members’ attention is also drawn to the following paragraphs of the Council’s Statement of Licensing Policy:-

1. Introduction

...

5. The Council wish to promote these objectives whilst still encouraging a vibrant and sustainable entertainment and leisure industry. The Council recognises both the needs of local residents for a safe and healthy environment in which to work and live and the importance of safe and well-run entertainment and leisure facilities to the area.

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15. The Council’s vision as set out within the Corporate Strategy 2018/2020 and within Halton’s fifteen year Sustainable Community Strategy 2011–2026 is that:

“Halton will be a thriving and vibrant Borough where people can learn and develop their skills; enjoy a good quality of life with good health; a high quality, modern urban environment; the opportunity for all to fulfil their potential; greater wealth and equality, sustained by a thriving business community; and safer, stronger and more attractive neighbourhoods”.

...

17. Locally due to the high levels of alcohol-related harm Halton experiences the Halton Health and Wellbeing Strategy 2017/2022 includes the reduction in the harm from alcohol as a priority area.

18. The strategy identified a number of issues which may be affected by the licensing regime in Halton including:

- A significant proportion of cases of domestic violence are alcohol related
- Alcohol related crime and alcohol related violent crimes are worse in Halton than for both the North West and England as a whole
- Alcohol specific admissions (both among adults and those aged under 18) are much higher than the national and regional averages.

19. In addition due to the high levels of alcohol-related harm Halton was one of only twenty areas in the country to be awarded the status of being a “Local Alcohol Action Area” (LAAA). This award provided support from the Home Office and Public Health England during 2014/15 related to addressing the harm from alcohol across three areas – health, crime and anti-social behaviour, and diversifying the night time economy.

...

21. The vision of the strategy is to: “Enable people in Halton to have a sensible relationship with alcohol that promotes good health and wellbeing and ensures Halton is a safe place to live”.

22. In order to achieve this vision and minimise the harm from alcohol in Halton the strategy will seek to deliver three interlinked outcomes:

1. Reduce alcohol-related health harms
2. Reduce alcohol-related crime, antisocial behaviour and domestic abuse
3. Establish a diverse, vibrant and safe night-time economy.

22. So far as is consistent with the licensing objectives, the Council will carry out its licensing functions with a view to promoting these priorities and themes (including priorities and themes which may be adopted from time to time).

23. The Council will encourage the provision of a wide range of entertainment activities within the Halton area including promotion of live music, dance and so on, in the interests of broadening cultural opportunities within the local community.

...

34. In addressing this matter, the Council will primarily focus on the direct impact of the activities taking place at the licensed premises on members of public living, working or engaged in normal activity in the area concerned. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond

the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.
[...]

48. Licensing hours

49. With regard to licensing hours, consideration will be given to the individual merits of an application.

- The Council recognises that, in certain circumstances, longer licensing hours with regard to the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance.
- The Council also wants to ensure that licensing hours should not inhibit the development of a thriving and safe evening and night-time local economy.

50. The term “zoning” is used in the Guidance to refer to the setting of fixed trading hours within a designated area. At the moment the Council sees no need to adopt such a policy. The Council has followed the advice in the Guidance and will not be adopting such a Policy within the Borough. However, stricter conditions with regard to noise control will be expected in areas which have denser residential accommodation, but this will not limit opening hours without regard to the individual merits of any application.

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57. Protection of children from harm

58. The Body the Council judges to be competent to act as the responsible authority in relation to the protection of children from harm is Halton Borough Council People Directorate: contact details are set out in Appendix A.

[...]

84. Plastic containers and toughened glass

85. The Council has concerns about the dangers of bottles and glasses being used as weapons. It

believes that the use of safer forms of glasses can help to reduce injuries and will expect applicants to state in their operating schedule what proposals they have to minimise such injuries through the use of safer forms of glasses, bottles and other means.

86. Consideration will therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries. Location and style of the venue, the activities carried on there, and the hours of operation, would be particularly important in assessing whether a condition is necessary: for example, the use of glass containers on the terraces of outdoor sports grounds may be of concern.

87. CCTV

88. The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time. The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

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92. Crime prevention

93. Conditions attached to premises licences and club premises certificates will, so far as possible, reflect local crime prevention strategies. For example, the provision of closed circuit television cameras in certain premises. Conditions will, where appropriate, also reflect the input of the local Crime and Disorder Reduction Partnership.

94 Drugs

The Council recognises that the supply and use of illegal drugs by individuals is not relevant to all licensed premises but it is recognised that conditions

may need to be attached to the licences for certain venues if representations are received. The aim will be to endeavour to reduce the availability, sale, and consumption of illegal drugs and to create a safer environment for those who may have taken them. Any conditions will take into account the relevant guidance and advice from appropriate bodies. The Council expects licensees of all venues to take all reasonable steps to:

- Prevent the entry of drugs into licensed premises
- Prevent drugs changing hands within the premises
- Understand the signs of drug misuse in people so that practical steps can be taken to deal with any instances that occur
- Have appropriately trained staff to deal with drug related incidents.

The Council expects licensees to permit the access and use of drug dogs within the public and staff areas of the premises upon request of the Council and/or police involved in such an initiative. The increasing prominence and dangers that can occur from Novel (New) Psychotic Substances (Legal Highs) is recognised and the Council would encourage all venues to include suitable steps within their Drugs Policy to deal with legal highs. The Council will consider whether it would be appropriate to impose a condition in order to promote one or more of the statutory licensing objectives where there is evidence to do so.

95 The control of excessive Alcohol consumption

It is an offence under the Licensing Act 2003 to sell to, or obtain alcohol for, a person who is drunk on licensed premises.

In practical terms this includes:

- Selling an alcoholic drink to someone who you know is drunk
- Buying an alcoholic drink for someone who you know is drunk

The Council expects all premises licence holders to take steps to control excessive consumption and

drunkenness on relevant alcohol licensed premises. All serving staff should be trained in recognising the signs of drunkenness, how to refuse service and the premises duty of care. The premise should display prominent signage at point of sale that it is an offence to sell alcohol to anyone who is drunk.

This will reduce the risk of anti-social behaviour occurring both on and away from the premises after customers have departed. Premises licence holders are expected to be able to demonstrate a general duty of care to customers using their premises and others affected by their activities.

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96. Capacity limits

97. Although most commonly made a condition of a licence on public safety grounds, consideration should also be given to conditions which set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

...

98. Good Management

99. Certain kinds of physical environment within places subject to premises licences (such as an over preponderance of vertical drinking) are generally thought be less conducive to avoiding crime and disorder. Good management and adequate staff training are vital. Where appropriate the provision of food in addition to alcohol can have a beneficial effect. Where food is provided it is good practice (but not mandatory under the licensing system) to have regard to current practice on healthy eating. The Council encourages premises licence holders to take an active part in local Pub Watch and Arc Angel schemes.

100. Another aspect of good management in relation to door supervision is to have proper systems in place to comply with the Private Security Industry Act 2001 and to think about how good door supervision systems can contribute to crime reduction both within and outside of premises. Applicants will be expected to have considered these and all relevant issues and to reflect these within their operating schedules

- 7.5 A full copy of the Guidance and the Council's Policy will be available at the hearing.
- 7.6 Every case must be considered on its own merits. The Sub-Committee may depart from the Guidance and Policy if there is good reason to do so. However, proper reasons must be given.
- 7.7 In addition to the above, the Committee must have regard to its wider duties under section 17 of the Crime and Disorder Act 1998 and Article 1 of the First Protocol of the Human Rights Act 1998.

8. OPTIONS

- 8.1 The Committee has the following options under Section 35 of the Act:
The Committee has the following options under Section 35 of the Act:

- (1) Grant the variation application subject to such conditions that are consistent with the operating schedule and any mandatory conditions;
- (2) Modify the conditions of the licence, by altering or omitting or adding to them;
- (3) Reject the application in whole or in part.

9. POLICY IMPLICATIONS

- 9.1 None

10. FINANCIAL IMPLICATIONS

- 10.1 There are no special financial considerations to the Authority which need to be highlighted at this stage. However, it should be noted that the decision of the sub-committee is subject to appeal to the Magistrates' Court. If an appeal is made, there will be costs associated with this.

11. IMPLICATIONS FOR THE COUNCIL'S PRIORITIES

11.1 Improving Health, Promoting Wellbeing and Supporting Greater Independence

None

11.2 Building a Strong, Sustainable Local Economy

None

11.3 Supporting Children, Young People and Families

None

11.4 Tackling Inequality and Helping Those Who Are Most In Need

None

11.5 Working Towards a Greener Future

None

11.6 Valuing and Appreciating Halton and Our Community

None

12. RISK ANALYSIS

12.1. The Council is required to hold the hearing in accordance with the Licensing Act 2003. Failure to do so, may mean that the Council is acting in breach of its obligations under that Act.

13. EQUALITY AND DIVERSITY ISSUES

13.1 There are no equality and diversity issues to highlight.

14. CLIMATE CHANGE IMPLICATIONS

14.1 There are no climate change implications since the decision will have no effect on the environment.

15. LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Guidance issued under Section 182 of the Licensing Act 2003	Licensing Section/ Government Website see link 1 below.	Kim Hesketh
Halton Council's Statement of Licensing Policy	Licensing Section/ Council website see link 2 below.	Kim Hesketh

1. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf
2. <https://www3.halton.gov.uk/Documents/business/licencing/alcoholent/StatementofLicensingPolicy.pdf>