

Licensing Sub-Committee

Agenda

Date:	Thursday, 26th November, 2009
Time:	10.00 am
Venue:	West Committee Room - Municipal Buildings, Earle Steet, Crewe

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 - MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Appointment of Chairman**

To appoint a Chairman for the meeting.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests and for Members to declare if they have pre-determined any item on the agenda.

3. **Application for a Variation to Premises Licence - Union Vaults, High Street, Nantwich** (Pages 5 - 12)

To consider an application to vary the Premises Licence for the Union Vaults public house at 15 High Street, Nantwich.

For requests for further information

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CHESHIRE EAST COUNCIL

PROCEDURE FOR HEARINGS – LICENSING ACT 2003

The Licensing Committee

The full Licensing Committee consists of fifteen elected Members of the Council. From this full Committee will be drawn sub-committees of three members to deal with licensing functions under the Licensing Act 2003. The Chairman and Vice Chairman of the Licensing Committee shall have the discretion to refer a matter up to a hearing of the full Licensing Committee.

Officers at Hearings

- **The Committee Officer** introduces all parties and records the proceedings
- **The Legal Adviser** provides independent advice to the Members on legal matters and procedure.
- **The Licensing Officer** will introduce the matter and outline the application; the officer will also answer any questions Members may have.

PROCEDURE

NOTE: If the Sub-Committee has not already elected a Chairman, that will be the first item of business.

1	Chairman	The Chairman will: (i) call the matter to be considered; (ii) call for any declarations of interest; (iii) ask all parties to introduce themselves; (iv) summarise the procedure to be followed at the hearing; (v) will consider any request made by a party for another person to appear at the hearing; (v) will advise the parties of any maximum period of time in which it has to present its case (if a maximum is imposed this shall be equal for all parties).
2	Licensing Officer	Will introduce and summarise the application, highlighting areas of contention or dispute.
3	Committee Members	May ask questions of the Licensing Officer
4	Applicant	Will present his/her case, calling witnesses, as appropriate. <i>(If necessary, applicant will produce any notices required by law. Legal Adviser will draw attention to this if required.)</i>
5	Responsible Authorities (who have made representations)	Each in turn may ask <u>questions</u> of the applicant, by way of clarification.

6	Local residents (ie. defined as “interested parties”)	To be invited to ask <u>questions</u> of the applicant, by way of clarification. <i>It is normal practice for a spokesperson only to speak on behalf of a group of residents.</i>
7	Committee Members	Each in turn may ask <u>questions</u> of the applicant.
8	Applicant	May make a <u>statement</u> or ask his witnesses to clarify any matters which he feels are unclear, or may have been misunderstood.
9	Responsible Authorities	Will make their representations.
10	Applicant	Or his representative or witnesses to ask <u>questions</u> of Responsible Authorities represented at the meeting, by way of clarification.
11	Local residents (ie. defined as “interested parties”)	May ask <u>questions</u> of the Responsible Authorities represented at the meeting, by way of clarification. (Note: This is not the point at which local residents should be stating their objections.)
12	Committee Members	May ask <u>questions</u> of the Responsible Authorities represented at the meeting
13	Local residents (ie. defined as “interested parties”)	The local residents who are objecting to the application will be invited <u>to make observations on the application</u> and present the bases of their objections.
15	Applicant	Or his representative or witnesses may ask <u>questions</u> of the Local Residents, by way of clarification.
16	Committee Members	May ask <u>questions</u> of the Local Residents.
17	Chairman	To invite both Responsible Authorities and Local Residents to make their closing addresses.
18	Applicant	Or his representative will <u>briefly summarise the application</u> and comment on the observations and any suggested conditions.
19	Committee	<u>Will retire</u> to consider the application. The Committee may request the Legal Advisor to advise on legal issues.
20	Committee	Will return to <u>give its decision</u> , with reasons, which will be announced by the Chairman and subsequently confirmed in writing to the applicant and to all the parties that made representations.

		In cases where a decision cannot be given at the end of the hearing, parties will be advised of the decision within five working days.
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Notes

1. The hearing shall normally be held in public. There may be occasions on which the Committee find it necessary to exclude members of the press and public; any such decision will be taken on the basis that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public.
2. The Chairman may require any person behaving in a disruptive manner to leave the hearing and may (a) refuse to permit that person to return, or (b) permit him/her to return only on such conditions as the authority may specify, but any such person may submit in writing any information which they would have been entitled to provide orally if they had not been required to leave.
3. Prior to the hearing each party shall have given notification and served documentation (eg statements of witnesses or reports of experts) as required. Late representations and evidence will only be considered with the agreement of all parties.
4. Anyone entitled to be heard may be represented by any person, whether or not that person is legally qualified.
5. Hearsay will be permitted but the Sub-Committee will be reminded to give it appropriate weight.
6. Due note shall be taken of the provisions of the Hearings Regulations 2005.
7. The Chair may, in the interests of expediency or convenience of the parties, vary the procedure from time to time, provided notice is given to the parties and the rules of natural justice are observed.

SUMMARY OF PROCEDURE

- 1 Chairman appointed (if this has not been done previously).
- 2 Chairman to call for declarations of interest and request that all parties introduce themselves.
- 3 Chairman summarises the procedure for the hearing
- 4 The Licensing Officer summarises the application
- 5 Applicant to present his/her case.
- 6 Applicant to be questioned by all parties (to clarify points only) following which, he/she can clarify any other matters which he/she feels may have been misunderstood when the application was presented.
- 7 Applicant to be questioned by the Committee.
- 8 Responsible Authorities to make their representations following which they can be questioned by all parties by way of clarification.
- 9 **Local residents** (defined as interested parties) will be invited to present the bases of their objections, following which they can be questioned by all parties by way of clarification.
- 10 The applicant will be invited to sum up his/her case
- 11 Committee/Sub-Committee withdraws to make its decision
- 12 Committee/Sub-Committee returns to announce its decision to all present.

CHESHIRE EAST COUNCIL

REPORT TO: Licensing Sub Committee

Date of Meeting: 26th November 2009
Report of: Carole Kerr
Subject/Title: APPLICATION FOR VARIATION TO PREMISES
LICENCE, UNION VAULTS, HIGH STREET, NANTWICH
Exempt/Confidential NO

1.0 Report Summary

- 1.1 The report provides details of an application to vary the Premises licence for the Union Vaults public house at 15 High Street, Nantwich. Representations to the variation have been received from Environmental Health and one interested party.

2.0 Recommendations

- 2.1 The Licensing Sub-Committee is requested to:
- 2.1.1 consider the representations received; and
- 2.1.2 determine the application for the variation of the premises licence.

3.0 Reasons for Recommendations

- 3.1 The Licensing Sub-Committee has the power to determine this application. The Sub-Committee is asked to make the decision within 2.1 above taking into consideration the promotion of the Licensing objectives and must also have regard to the Councils Statement of Licensing Policy and Guidance published under section 182 of the Licensing Act 2003.

4.0 Wards Affected

- 4.1 Nantwich Ward

5.0 Local Ward Members

- 5.1 Cllr Brian Dykes, Cllr Andrew Martin and Cllr Arthur Moran

6.0 Policy Implications

- 6.1 The Council has adopted a Statement of Licensing Policy under the Licensing Act 2003 relating to its functions as a licensing authority under the Act.

7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)

7.1 None

8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)

8.1 None

9.0 Legal Implications (Authorised by the Borough Solicitor)

9.1 In accordance with the provisions of Section 35 of the Licensing Act 2003, in determining the application the Licensing Authority must, having regard to the representations, take such steps (if any) as it considers necessary for the promotion of the licensing objectives. Section 35(4) provides that the authority may (a) modify the conditions of the licence, or (b) reject in whole or part of the application.

10.0 Risk Management

10.1 The Licensing Committee will hear representations made on behalf of both the Premises Licence holder and the objectors and will make a decision on the basis of the evidence presented to it. The Act provides a right of appeal to the Magistrates Court against the decision of the Licensing Authority.

11.0 Background and Options

11.1 The Union Vaults is licensed to sell alcohol and to provide entertainment on five evenings per week until 1.00am Friday and Saturday evenings. The closing time of the premises is 00.30am and 1.30am respectively. These hours are extended until 2.00am (closing at 2.30am) during Bank holiday weekends and on Christmas Eve and Boxing Day.

11.2 The premises are a small Public House in a row of terraced properties in Nantwich town centre. The rear yard of the premises forms the outdoor drinking area. A copy of the plan is attached for information at **Appendix A**.

11.3 A licence for the premises was granted in 2005 following a hearing of the Sub-Committee. The Sub-Committee attached the following conditions to the licence in order to promote the licensing objective of the prevention of public nuisance;

No nuisance shall be caused by noise coming from the premises or by vibration transmitted through the structure of the building.

There shall be placed at all exits from the premises in a place where they can be seen and easily read by the public, notices requiring customers to leave the premises and the area quietly.

The placing of refuse such as bottles into receptacles outside the premises shall not take place outside the following times: 08.00 – 20.0 hrs

The inner entrance doors at the front of the premises shall not be kept or held in an open manner after 20.00 hours each evening.

Regulated entertainment shall not be provided in the beer garden/outdoor drinking area.

The beer garden/outdoor drinking area shall be closed to customers by 23.30 hours each evening.

- 11.4 The current application is to vary the Licence by removal of the condition requiring the beer garden to be closed to customers by 23:00hrs. The application indicates that the variation is sought to enable customers in the premises to go outside into the beer garden to smoke at all times the premises are open.

11.5 Environmental Health Objections.

Environmental Health have made the following representation on the ground of public nuisance:

That the variation be not granted on the grounds that the increase in the use of the outdoor area would be likely to cause a public nuisance to neighbouring dwellings.

11.6 Public Objections

- 11.6.1 Representations have been received from the occupants of a residential dwelling adjacent to the premises.

- 11.6.2 The writers express concern about the potential for increased disturbance from the extended use of the outside area. The representations have been made under the Licensing objective of the prevention of public nuisance. **Letter appended to the report at B.**

- 11.7 In making its decision, the sub-committee must have regard to the observations of Environmental Health, neighbouring residents and any representations made by the holder of the Premise licence.

12.0 Overview of Year One and Term One Issues.

- 12.1 Not applicable.

13.0 Access to information.

There are no background papers associated with this report.

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Designation: Licensing Officer

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Union Vaults

15 High Street, Nantwich

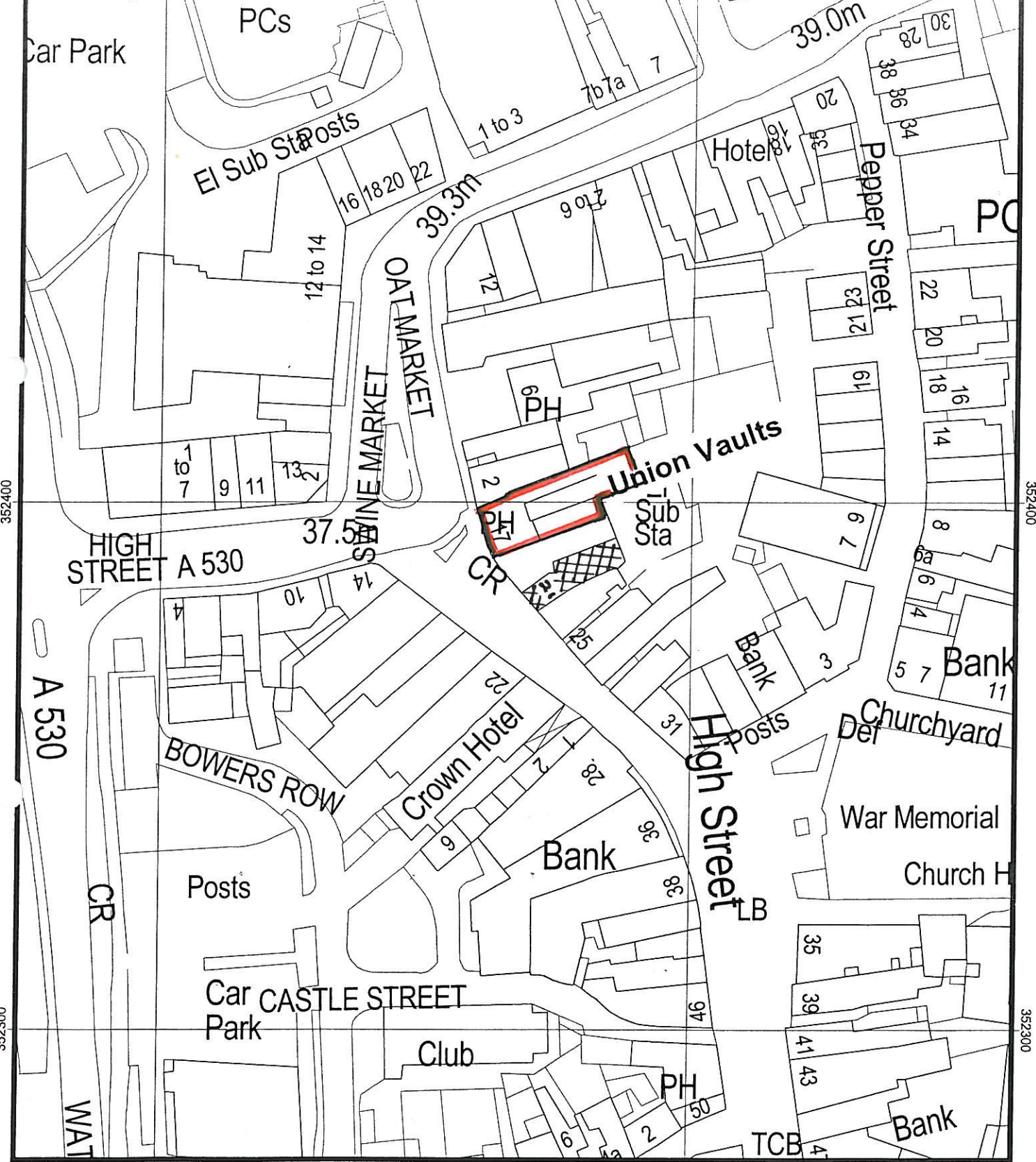
Key:

Representations received from properties shown hatched

365100

352500

352500



scale 1:1000



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Nantwich
Cheshire
CW5 5AH

09-October-2009

Ref: - Application to vary the Premises License, The Union Vaults,
Nantwich.

Dear Sir/Madam

We are writing to object in the strongest possible terms, to the proposed change to the Premises License, at the Union Vaults pub, Nantwich.

This proposed change, would allow the clients of the Union Vaults, to remain in the Beer Garden area after 23.30.

Since this Beer Garden is located in such close proximity to our Bedroom we already suffer with sleep deprivation, from the noise of clients using the Beer Garden up to 23.30, the Landlord Mark Garrett appears to have no control over the swearing, shouting & singing by clients in this area, and he has recently installed a large Plasma Television in the Beer Garden which has exacerbated this situation.

Mr. Garrett shows absolutely no concern, for the local residents of Nantwich, with regard to the noise escaping from the front & Rear of his premises from the Disco.

We believe, that any increase in the allowed time for this area to be cleared of clients, would be further detrimental to our health & Quality of life.

Yours Truly

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