

Licensing Act Sub-Committee

Agenda

Date: Monday 14th May 2012
Time: 2.00 pm
Venue: West Committee Room - Municipal Buildings, Earle Street,
Crewe, CW1 2BJ

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. **Notice Of Temporary Events: Leopard Hotel, 33 London Road, Nantwich, CW5 6LJ** (Pages 5 - 20)

To consider the two notices for temporary events which have been served in respect of the Leopard Hotel, 33 London Road, Nantwich

THERE ARE NO PART TWO ITEMS

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

LICENSING ACT SUB-COMMITTEE

Date of meeting: 14 May 2012

Report of: Carole Kerr, Licensing Administration Officer

Title: Notice Of Temporary Events:
Leopard Hotel, 33 London Road, Nantwich, CW5 6LJ

1.0 Report Summary

- 1.1 The report provides details of two notices for temporary events which have been served in respect of the Leopard Hotel, 33 London Road, Nantwich. Both notices request authorisation for (i) the sale by retail of alcohol (for consumption on the premises); and (ii) the provision of regulated entertainment. The Environmental Health Service has submitted objection notices in relation to each temporary event notice.

2.0 Recommendations

- 2.1 The Licensing Act Sub-Committee is requested to:

- 2.1.1 consider both the temporary event notice served in relation to Sunday 27th May 2012 and the objection notice received in respect of this temporary event notice; and
- 2.1.2 consider both the temporary event notice served in relation to Sunday 3rd June 2012 and the objection notice received in respect of this temporary event notice; and

in each case determine whether, having regard to the objection notice, to give a counter notice under section 105 of the Licensing Act 2003.

3.0 Reasons for Recommendations

- 3.1 The Licensing Act Sub-Committee has the delegated authority to consider these temporary event notices.

4.0 Wards Affected

- 4.1 Nantwich South

5.0 Local Ward Members

- 5.1 Councillor Peter Grove and Councillor Andrew Martin.

6.0 Policy Implications

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

7.0 Financial Implications (Authorised by the Director of Finance & Business Services)

- 7.1 None.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Section 104 of the Licensing Act 2003 provides that where a 'relevant person' (i.e. the Chief Officer of Police or the Environmental Health Service) are satisfied that allowing a premises to be used in accordance with a Temporary Event Notice would undermine a licensing objective, that 'relevant person' is required to give a notice ("an objection notice") stating the reasons for being so satisfied.
- 8.2 Where a licensing authority receives an objection notice it is required, by section 105(2) of the Licensing Act 2003 to:
- a) hold a hearing to consider the objection notice, unless the premises user, the relevant person who gave the notice and the licensing authority agree that a hearing is unnecessary; and
 - b) having regard to the objection notice, give the premises user a counter notice if it considers it appropriate for the promotion of a licensing objective to do so.
- 8.3 In circumstances where an objection notice has been given (and not withdrawn) and the licensing authority has determined not to give a counter notice under section 105, the authority may impose one or more conditions on the standard temporary event notice if (a) the authority considers it appropriate for the promotion of the licensing objectives to do so; (b) if the conditions are already imposed on the premises licence that has effect in respect of the premises; and (c) the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.

9.0 Risk Management

- 9.1 The Licensing Sub-Committee will hear representations made on behalf of both the premises user and the 'relevant person' who has submitted the objection notice and will make a decision on the basis of the evidence presented to it. The Licensing Act 2003 provides a right of appeal to the Magistrates' Court against the decision of the Local Authority.

10.0 Background and Options

- 10.1 The premises which is the subject of the two separate temporary event notices is a Public House situated on a main road and bound on all sides by residential properties. There is a large car park to the front and side of the property. A location plan attached at **Appendix A**.

- 10.2 The Temporary Event Notice served in relation to Sunday 27th May 2012 seeks to authorise: (i) the sale by retail of alcohol (for consumption on the premises only); and (ii) the provision of regulated entertainment between the hours of 12.00 and 22.00. The notice indicates that the licensable activities would take place in the pub and the car park. The event is described as “Elvis Tribute, live music on stage on car park.”

The Temporary Event Notice served in relation to Sunday 3rd June 2012 seeks to authorise: (i) the sale by retail of alcohol (for consumption on the premises only); and (ii) the provision of regulated entertainment between the hours of 12.00 and 22.00. The notice indicates that the licensable activities would take place in the pub and the car park. The event is described as “Diamond Jubilee celebration, live band and tribute acts on stage at car park.”

- 10.3 The Temporary event notices have been served in the name of the current Designated Premises Supervisor Mr Man Tsui.
- 10.4 The Leopard has a Premises licence to permit the sale of alcohol and the provision of regulated entertainment (live and recorded music – inside only) from 10.00 to 23.00 hrs (Mon/Tues/Wed and Sunday) and from 10.00 to 00.00 (Thurs/Fri/Sat). The Premises Licence holder is Joules Brewery, Great Hales Street, Market Drayton, Shropshire. A copy of the Premises Licence is appended as **Appendix B**.

10.5 Objection from ‘relevant person’

- 10.5.1 The Police have not submitted an objection notice in respect of the temporary event notice.
- 10.5.2 The Environmental Health Service has submitted objection notices in respect of each of the temporary event notices. A copy of each of the objection notices is attached at **Appendix C**.

11.0 Access to Information.

There are no background papers associated with this report.

Name: Carole Kerr
Designation: Licensing Administration Officer
TEL: 01270 371375
Email: carole.kerr@cheshireeast.gov.uk

Appendix A- Location Plan

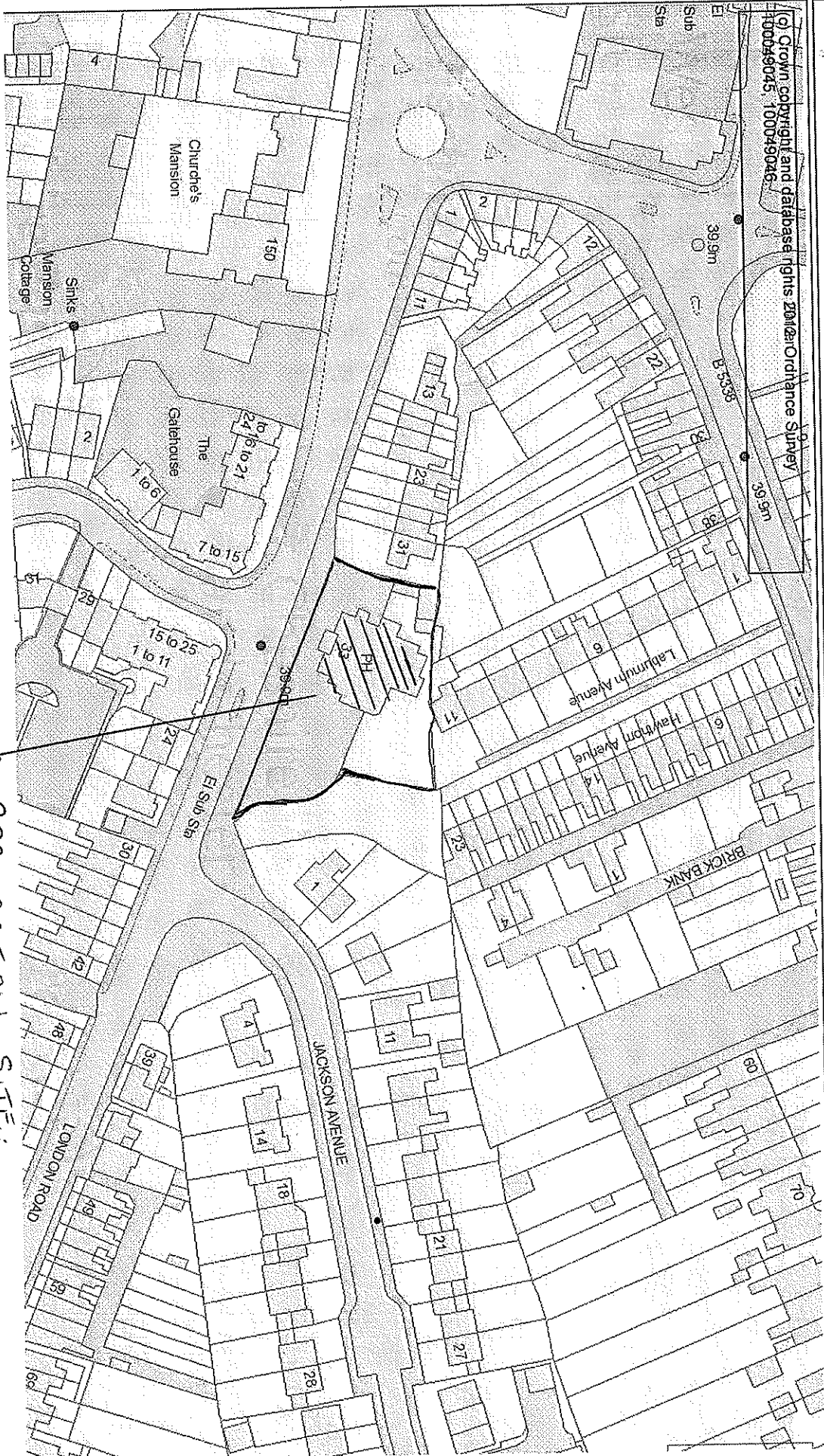
Appendix B- Premises Licence

Appendix C- Objection notices submitted by Environmental Health

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APPLICATION SITE

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Part A

PREMISES LICENCE**Cheshire East Borough Council**

Premises licence number	281
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Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description

Leopard
33 London Road

Post town	Nantwich	Post code	CW5 6LJ
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Telephone number	01270 610304
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Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence

Sale by retail of alcohol
Provision of regulated entertainment

The times the licence authorises the carrying out of licensable activities

Monday	10:00	to	23:00
Tuesday	10:00	to	23:00
Wednesday	10:00	to	23:00
Thursday	10:00	to	00:00
Friday	10:00	to	00:00
Saturday	10:00	to	00:00
Sunday	11:00	to	23:00

The opening hours of the premises

Monday	10:00	to	23.30
Tuesday	10:00	to	23.30
Wednesday	10:00	to	23.30
Thursday	10:00	to	00.30
Friday	10:00	to	00.30
Saturday	10:00	to	00.30
Sunday	11:00	to	23.30

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

On and off

Part 2

Name, (registered) address, telephone number and email (where relevant) of the holder of the premises licence

**Joules Brewery Ltd
Great Hales Street
Market Drayton
Shropshire
TF9 1JP**

Tel: 01630 654400

Registered number of holder, for example company number, charity number (where applicable)

Registered Number : 649 266S

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

**Alan Tsui
The Leopard
33 London Road
Nantwich
CW5 6LJ**

Tel: 01270 610304

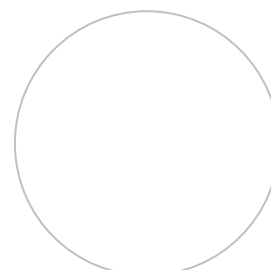
Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

**Personal licence number 0278
Issued by Newcastle Under Lyme Borough Council**

Issued by:

Carole Kerr
Licensing
Cheshire East Borough Council
Westfields
Middlewich Road
Sandbach
Cheshire CW11 1HZ

6th January 2012



Annex 1 - Mandatory conditions

1. No supply of alcohol may be made under the Premises licence:
 - At a time when there is no Designated Premises Supervisor in respect of the Premises licence, or
 - At a time when the Designated Premises Supervisor does not hold a Personal licence, or his/her Personal licence is suspended.
2. Every supply of alcohol under the Premises licence must be made or authorised by a person who holds a Personal licence.
3. The responsible person shall take all reasonable steps to ensure that staff do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

An irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading to or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children –

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to –
 - i. drink a quantity of alcohol within a time limit (other than to drink alcohol sold on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol) or
 - ii. drink as much alcohol as possible (whether within a time limit or otherwise),
- b) provision of unlimited or unspecified quantities of alcohol free or for a fixed price or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol consumption at a table meal, as defined in section 159 of the Licensing Act),
- c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less,
- d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where the provision is dependant on-
 - i. the outcome of a race, competition or other event or process, or

- ii. the likelihood of anything occurring or not occurring,
- (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to the effects of drunkenness in any favourable manner.
- 4. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that person is unable to drink without assistance by reason of a disability).
- 5. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

The following conditions are effective from 01 October 2010

- 6. a) The Premises Licence holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
 - b) The policy must require individuals who appear to the responsible person to be under the age of 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 a holographic mark.
- 7. The responsible person shall ensure that –
 - a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks, sold or supplied in a securely closed container) it is available to customers in the following measures-
 - i. beer or cider half pint
 - ii. gin, rum, vodka or whisky 25ml or 35 ml, and
 - iii. still wine in a glass: 125ml, and
 - b) customers are made aware of the availability of these measures.

Annex 2 - Conditions consistent with Operating Schedule

1. No nuisance shall be caused by noise coming from the premises or by vibration transmitted through the structure of the premises.
2. 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.
3. Refuse such as bottles shall be disposed of from the premises at a time (i.e. between 08:00 and 20:00) when it is not likely to cause a disturbance to residents in the vicinity of the premises.
4. The beer garden shall be closed to patrons by 9:00pm or at dusk whichever is the earlier.
5. All external areas including the car park are well lit.
6. Challenge 21 scheme is in operation.
7. Managed customer departure
8. No children permitted after 21:00hours
9. All children must be accompanied by an adult.
10. No striptease or nudity at any time.
11. Amusements with Prizes machines are situated in the bar area where children are not permitted.
12. The opening hours and all licensable activities are extended by one hour into the morning following every Friday, Saturday, Sunday and Monday for each May Day, Spring/Whitsun holiday, August Bank holiday weekend, Easter Bank holiday weekend, Maundy Thursday, Christmas Eve and Boxing Day. Hours are extended for the period between New Years eve and the commencement of normal licensing hours on New Years Day.
13. Licensable activities permitted are as follows:-

LIVE / RECORDED MUSIC/ SALE OF ALCOHOL (INSIDE)

MON – WED 10:00 – 23:00
THURS – SAT 10:00 _ 00:00
SUN - 11:00 – 23:00

Annex 3 - Conditions attached after a hearing by the licensing authority

None

Annex 4 - Plans

See attached.

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LICENSING ACT 2003
Environmental Health TEN Consultation Response

Date Received: 1st May 2012

Name of Applicant: Mr Man Tsui

Address to which application relates:

The Leopard
33 London Road
Nantwich
CW5 6LJ

Date of event(s): Sunday 27th May 2012 12:00hrs to 22:00hrs

☐ Approve

☒ Object

Observations

Environmental Health received a complaint of noise nuisance following the last outside live music event at the Leopard, at the beginning of April, which was held by the applicant without the appropriate licence in place.

This application is for live music on an open stage in the car park of the premises from 12pm until 10pm. The car park backs onto numerous residential properties and an open stage provides very little attenuation. Hence 10 hours of live music on a Sunday, when people need to be up for work the next day, is excessive and would fail to meet the licensing objective of the prevention of public nuisance. Advice had already been given to the applicant, following the last event, to reduce the operating times, which has been ignored.

Consequently Environmental Health must object to the granting of the Temporary Event Notice under the licensing objective of the prevention of public nuisance.

SIGNED: Sarah Edge

DATED: 2nd May 2012

LICENSING ACT 2003
Environmental Health TEN Consultation Response

Date Received: 1st May 2012

Name of Applicant: Mr Man Tsui

Address to which application relates:

The Leopard
33 London Road
Nantwich
CW5 6LJ

Date of event(s): Sunday 3rd June 12:00hrs to 22:00hrs

☐ Approve

☒ Object

Observations

Environmental Health received a complaint of noise nuisance following the last outside live music event at the Leopard, at the beginning of April, which was held by the applicant without the appropriate licence in place.

This application is for live music on an open stage in the car park of the premises from 12pm until 10pm. The car park backs onto numerous residential properties and an open stage provides very little attenuation. Hence 10 hours of live music on a Sunday until 10pm, when people will be trying to sleep, is excessive and would fail to meet the licensing objective of the prevention of public nuisance. Advice had already been given to the applicant, following the last event, to reduce the operating times, which has been ignored.

Consequently Environmental Health must object to the granting of the Temporary Event Notice under the licensing objective of the prevention of public nuisance.

SIGNED: Sarah Edge

DATED: 2nd May 2012