

OPEN

Licensing Act Sub-Committee

10 October 2023

**Application for a variation to a Premises
Licence – Capital Walk, High Street,
Congleton CW12 1WB**

**Report of: Jayne Traverse, Executive Director – Place
Ward(s) Affected: Congleton West**

Purpose of Report

- 1 To allow Members of the Sub-Committee to determine a contested application for the variation of a premises licence made under the Licensing Act 2003 for the following premises:

Capital Walk, High Street, Congleton CW12 1WB

Executive Summary

- 2 The report provides details of an application for a Premises Licence, under section 34 of the Licensing Act 2003, sets out the relevant representations made, and outlines the evidence presented by the parties in relation to the application.

RECOMMENDATIONS

The Licensing Act Sub-Committee is requested to consider the application and any relevant representations and determine what steps, if any, it considers are appropriate to promote the Licensing Objectives.

Background

- 3 On 15th August 2023 an application was received by the Licensing Department for the variation of a Premises Licence in respect of a premises known as Capital Walk, at High Street, Congleton CW12 1WB. The application was sent for consultation the same day (15th August 2023). The last date for representations to be made was 12th September 2023. A copy of the full application and plan is attached to this report at **Appendix 1**.
- 4 Licensing records show that a Premises Licence currently exists in relation to Capital Walk at High Street, Congleton CW12 1WB. The Premises Licence Number PREM1386 refers, and a copy is attached to this report at Appendix 2.
- 5 The application seeks to extend the times of the licensable activities (as set out in paragraph 6.6 below).
- 6 A map of the area in which the premises is located is attached to this report at **Appendix 4**.
- 7 The operating schedule indicates that the relevant licensable activities that will be subject to change if this application is successful are; the supply of alcohol and the provision of recorded music.
- 8 The amended hours applied for are as follows:

Supply of alcohol (for consumption on & off the premises)

Friday to Saturday – 09:00hrs to 01:00hrs

Provisions of Recorded Music (Indoors & outdoors)

Friday to Saturday – 09:00hrs to 01:00hrs

Consultation and Engagement

- 9 Licensing records show that the Public Notice that is required to be displayed at or near the proposed premises in accordance with the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005, has been inspected by a Licensing Officer on 18th August 2023 and confirmed to be present, and met the requirements under the regulations. The Public Notice has also been duly advertised in the Congleton Chronicle, as required.

10 Responsible Authorities:

The Licensing Authority has received representations from Cheshire Fire & Rescue Services and Planning Services (Building Control). A copy of the representations are attached to this report at **Appendix 3**.

11 Other Persons:

The Council received no representations against the application, from members of the public.

Reasons for Recommendations

12 The Licensing Act Sub-Committee has the power to determine this application in accordance with the provisions of the Licensing Act 2003 and the Council's Constitution.

13 Acting in the capacity of the Licensing Authority, Members must seek to promote the Licensing Objectives and where Members consider that matters have engaged one or more of the Objectives, they may exercise their discretion. The Licensing Objectives are:

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

Other Options Considered

14 No other options have been considered because the process for determining contested applications is set by legislation.

Implications and Comments

Monitoring Officer/Legal

15 The Sub Committee must determine this application in accordance with section 35 of the Licensing Act 2003. To do so otherwise would render its determination unlawful and invalid.

16 In accordance with the provisions of section 35 (3)(b) of the Licensing Act 2003 the Licensing Authority Sub Committee must, having regard to the

representations, made in this application take such steps (if any) as it considers appropriate for the promotion of the licensing objectives.

- 17 Section 35 (4) provides that the authority may:
 - Modify the conditions of the licence
 - Reject the whole or part of the application
- 18 Members are reminded that should any conditions be added or amended, they should be practical, enforceable and appropriate to promote the Licensing Objectives.
- 19 Members may not extend the period for which the licence has effect.
- 20 Members may not vary substantially the premises to which the licence relates.
- 21 Members may vary the premises licence so that it has effect subject to different conditions in respect of different parts of the premises or different licensable activities.
- 22 Members are reminded that they are to determine the variation application before them and cannot change parts of the licence that are not part of the application.
- 23 Members of the Licensing Sub-Committee are reminded that they may not exercise discretion in any case, merely because it considers it desirable to do so. Careful consideration should be given to the application and the evidence presented by the parties in relation to the application.
- 24 Members are also reminded of the statutory obligation placed on the Local Authority under section 17 of the Crime and Disorder Act 1998 to through all of its various functions, and Licensing is one of those functions to do all that it can to prevent Crime and disorder, Anti-social Behaviour, behaviour adversely affecting the environment and reoffending.
- 25 Members must give reasons for their determination and notice of it must be communicated to the parties to this application. If Members depart from the Statutory Guidance or the Council's Statement of Licensing Policy then their decision notice must set out the reasons for doing so.
- 26 Finally, Members are also reminded that in determining the application, consideration also needs to be given to:
 - The rules of natural justice
 - The provisions of the Human Rights Act 1998

Section 151 Officer/Finance

27 There are no financial implications

Policy

28 The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003.

29 The Licensing Authority must also have due regard to the guidance issued under section 182 of the Licensing Act 2003.

30 Members should provide reason(s) for any decision taken and should set out the reasoning where they determine to depart in any way from the Policy or Guidance.

Equality, Diversity and Inclusion

31 There are no equality implications

Human Resources

32 There are no human resources implications

Risk Management

33 The Licensing Sub-Committee will hear representations made on behalf of both the applicant and the 'relevant person' who has submitted their representation and will make a decision on the basis of the evidence presented to it. The Licensing Act 2003 makes provision for appeal to the Magistrates' Court of any decision made by the Licensing Authority

Rural Communities

34 There are no implications for rural communities

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

35 There are no implications for children and young people

Public Health

36 There are no direct implications for public health

Climate Change

37 There are no implications for climate change

Access to Information	
Contact Officer:	Amanda Andrews – Licensing Enforcement Officer Licensing@Cheshireeast.gov.uk 0300 123 5015
Appendices:	Appendix 1 – Application & Plan Appendix 2 – Existing Premises Licence Appendix 3 – Representations from Responsible Authorities Appendix 4 – Map of General area
Background Papers:	Revised Guidance issued under section 182 of the Licensing Act 2003 (publishing.service.gov.uk) Council's Statement of Licensing Policy published under section 5 of the Licensing Act 2003 Licensing Act 2003 The Licensing Act 2003 (Hearings) Regulations 2005