

OPEN

Licensing Act Sub-Committee

16 April 2024

**Application for a variation to a Premises
Licence – PROPER SOUND,
6-8 CHESTERGATE, MACCLESFIELD,
SK11 6BA**

**Report of: Peter Skates, Acting Executive Director - Place
Ward(s) Affected: Macclesfield Central**

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:

Proper Sound, 6-8 Chestergate, Macclesfield, SK11 6BA

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 20th February 2024 an application was received by the Licensing Team for the variation of a Premises Licence in respect of a premises known as Proper Sound.

The application was sent for consultation the same day (20th February 2024). The last date for representations to be made was 19th March 2024. 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 Proper Sound. The Premises Licence Number PREM1349 refers, and a copy is attached to this report at **Appendix 2**.
- 5 Licensing records show that, in relation to the current Premises Licence, the application for the same was referred to members of the Council's Licensing Act Sub-Committee for determination following the receipt of representations. A copy of the Decision Notice issued by the Sub-Committee is attached to this report at **Appendix 5**.
- 6 A map of the area in which the premises is located is attached to this report at **Appendix 8**.
- 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.
- 8 The amended hours applied for are as follows:

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

Monday to Sunday – 10:00hrs to 23:00hrs

- 9 Licensing records show that a warning letter was sent from the Licensing Authority to the Premises Licence Holder on 7th August 2023. This was following a compliance inspection undertaken at the premises, upon receipt of a compliant received via the Environmental Protection Team. The letter, which sets out issues of non-compliance in relation to the conditions attached to the Premises Licence is attached to this report at **Appendix 6**.
- 10 Licensing records show that a Temporary Event Notice was received in respect of an event at the premises planned for 12th August 2023. Following receipt of an objection from the Environmental Protection Team, the matter was referred to the Council's Licensing Act Sub-Committee for determination. The Sub-Committee determined that a Counter Notice would be issued in order to promote the Prevention of Public Nuisance licensing objective. A copy of the Counter Notice served upon the applicant is attached to this report at **Appendix 7**.
- 11 Licensing records show that the following Temporary Event Notices have also been received in relation to the premises, for which no objections

were received. No complaints have been received by the Licensing Team in relation to any of these events.

	Date(s) of event	Times for Licensable Activities (Sale of Alcohol)
1.	11/11/23	12:00 – 23:00hrs
2.	16/12/23 – 22/12/23	12:00 – 22:30hrs
3.	17/11/23 – 18/11/23	12:00 – 22:00hrs
4.	24/11/23 – 25/11/23	12:00 – 22:00hrs
5.	1/12/23 – 2/12/23	12:00 – 22:00hrs
6.	8/12/23 – 9/12/23	12:00 – 22:00hrs
7.	22/2/24 – 24/2/24	12:00 – 22:30hrs
8.	28/3/24 – 1/4/24	12:00 – 23:00hrs
9.	5/4/24 – 7/4/24	12:00 – 23:00hrs
10.	12/4/24 – 14/4/24	12:00 – 23:00hrs

Consultation and Engagement

12 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 26th February 2024 and confirmed to be present, and met the requirements under the regulations. The Public Notice has also been duly advertised in the Macclesfield Express, as required.

13 Responsible Authorities:

The Licensing Authority has received representations from the Council's Environmental Protection Team, which includes proposed conditions agreed with the applicant. A copy of the representations are attached to this report at **Appendix 3**.

14 Other Persons:

The Council received representations against the application, from one member of the public and one ward Councillor. A copy of the representations are attached to this report at **Appendix 4**.

Reasons for Recommendations

- 15 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.
- 16 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

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

Implications and Comments

Monitoring Officer/Legal

- 18 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.
- 19 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.
- 20 Section 35 (4) provides that the authority may:
 - Modify the conditions of the licence
 - Reject the whole or part of the application
- 21 Members are reminded that should any conditions be added or amended, they should be practical, enforceable and appropriate to promote the Licensing Objectives.
- 22 Members may not extend the period for which the licence has effect.

- 23 Members may not vary substantially the premises to which the licence relates.
- 24 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.
- 25 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.
- 26 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.
- 27 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.
- 28 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.
- 29 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

- 30 There are no financial implications.

Policy

- 31 The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003.
- 32 The Licensing Authority must also have due regard to the guidance issued under section 182 of the Licensing Act 2003.

33 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

34 There are no equality implications.

Human Resources

35 There are no human resources implications.

Risk Management

36 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

37 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)

38 There are no implications for children and young people.

Public Health

39 There are no direct implications for public health.

Climate Change

40 There are no implications for climate change.

Access to Information	
Contact Officer:	Martin Kilduff, Licensing Enforcement Officer Licensing@Cheshireeast.gov.uk 0300 123 5015
Appendices:	Appendix 1 – Application to vary license (1 of 2) Appendix 1 – Plan of Premises Appendix 2 – Current Premises Licence Appendix 3 - Environmental Protection Representation

	<p>Appendix 4 – Objections from Other Persons Appendix 5 – Decision Notice Re PL application 2021 Appendix 6 – Warning Letter 7/8/23 Appendix 7 – TEN Counter Notice Appendix 8 – Map of area</p>
Background Papers:	<p><u>Revised Guidance issued under section 182 of the Licensing Act 2003 (publishing.service.gov.uk)</u></p> <p><u>Council’s Statement of Licensing Policy published under section 5 of the Licensing Act 2003</u></p> <p><u>Licensing Act 2003</u></p> <p><u>The Licensing Act 2003 (Hearings) Regulations 2005</u></p>