

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING ACT SUB-COMMITTEE

Date of Meeting:	Thursday 4 th July 2013 at 10:00 a.m.
Report of:	Mrs N Cadman, Licensing Officer
Subject/Title:	Application to Vary a Premises Licence at Wilbraham Arms, 58 Welsh Row, Nantwich, CW5 5EJ

1.0 Report Summary

- 1.1 The report provides details of an Application to Vary a Premises Licence under the Licensing Act 2003 and the proposed operating schedule together with details of relevant representations received in relation to the application.

2.0 Recommendations

- 2.1 The Licensing Act Sub-Committee is requested to determine the Application to Vary a Premises Licence by Enterprise Inns Plc in respect of:

Wilbraham Arms
58 Welsh Row
Nantwich
CW5 5EJ

- 2.2 Acting in the capacity of Licensing Authority, Members must seek to promote the Licensing Objectives, and where Members consider matters have engaged one or more of the objectives, they may exercise their discretion.

- 2.3 Members of the Licensing Sub-Committee are reminded that they may not exercise discretion in any case, merely because it considers it desirable to, and should provide reason(s) for any decision taken, or where they might consider departing in any way from the Policy or Guidance.

2.4 Licensing Objectives / Guidance / Policy Considerations

- 2.4.1 The relevant representations engage the licensing objectives. The Sub-Committee in respect of this application is referred to the Guidance issued under Section 182 of the Licensing Act 2003, specifically those sections relating to the licensing objectives, premises licenses and hearings. The licensing objectives are (a) the prevention of crime and disorder; (b) public safety; (c) the prevention of public nuisance; and (d) the protection of children from harm.

2.5 Statement of Licensing Policy

- 2.5.1 Members should carefully consider the relevant sections of the Council's Statement of Licensing Policy.

2.6 Members are reminded that should any conditions be added, they should be practical, enforceable and appropriate to promote the Licensing Objectives.

2.7 Finally, Members are also reminded that in determining the application in accordance with the Licensing Act 2003, Members must also have regard to:

- The rules of natural justice
- The provisions of the Human Rights Act 1998

3.0 Reasons for Recommendations

3.1 The Licensing Act Sub-Committee has the power to determine this application in accordance with the provisions of the Licensing Act 2003.

4.0 Wards Affected

4.1 Nantwich North and West

5.0 Local Ward Members

5.1 Cllr Penny Butterill
Cllr Arthur Moran

6.0 Policy Implications

6.1 The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003 and Guidance issued under section 182 of the Act.

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

7.1 Not applicable.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 In accordance with the provisions of section 18 of the Licensing Act 2003 the Licensing Authority must, having regard to the representations, take such steps (if any) as it considers appropriate for the promotion of the licensing objectives. Section 18(4) provides that the authority may:

- (a) Grant the licence subject to the relevant mandatory conditions and conditions consistent with the operating schedule
- (b) Modify the application to such extent as the Authority considers appropriate for the promotion of the Licensing Objectives
- (c) Exclude from the scope of the licence any of the Licensable Activities to which the application relates
- (d) Refuse to specify a person in the licence as the Premises Supervisor
- (e) Reject the application.

9.0 Risk Management

9.1 Section 181 and Schedule 5 of the Licensing Act 2003 make provision for appeal to the Magistrates' Court of any decision made by the Licensing Authority.

10.0 Background and Options

10.1 The application, received on the 16th May 2013, is for the grant of a Variation of the Premises Licence under section 34 of the Licensing Act 2003.

10.2 The operating schedule indicates that the proposed variation is as follows:

- To extend the hours for the Sale and Supply of Alcohol and Late Night Refreshment.
- To extend the opening hours of the premises.
- To remove all regulated entertainment from the Premises Licence.
- To delete Condition 4 of Annex 2 of the existing Premises Licence, i.e. Children under the age of 16 are not permitted on the premises after 20.00hrs.

10.3 The hours applied for are as follows:

- **Sale and Supply of Alcohol**
Sunday to Wednesday 10:00 to midnight
Thursday to Saturday 10:00 to 01:00 hours
- **Late Night Refreshment**
Sunday to Wednesday 23:00 to midnight
Thursday to Saturday 23.00 to 01:30 hours
- **Opening Hours of the Premises**
Sunday to Wednesday 10:00 to midnight
Thursday to Saturday 10:00 to 01.30 hours

10.4 A copy of the application form is attached as Appendix 25 of this report.

10.5 A copy of the existing Premises Licence Summary and Conditions is attached as Appendix 26 of this report.

10.6 An application to Review the Premises Licence was made by Margaret Hopley, Cheshire East Council Environmental Health Officer on 13th October 2010. The Review application was in relation to the Licensing Objective, the prevention of public nuisance and followed investigation by the Environmental Health Department following complaints from a number of residents regarding amplified music emanating from the premises and individuals within the rear yard creating excessive noise until the early hours of the morning. The Police also made a representation in relation to the Review application regarding

complaints received by the Police from neighbours relating to public nuisance. There were also representations received in relation to the Review application from 15 interested parties residing in the vicinity of the premises. The Premises Licence Holder and Designated Premises Supervisor at the time of the Review was Mr Gavin Chamberlain. The Review application was heard by the Members of the Council's Licensing Sub-Committee on 26th November 2010 when the Sub-Committee determined to add conditions and amend the hours of the Premises Licence. A copy of the Decision is attached at Appendix 27 of this report.

The Police and the Cheshire East Council Environmental Health Department have confirmed that there have been no further issues with the Wilbraham Arms since the Review application, however they point out that the premises has been closed for a majority of the time since the Review.

The Premises Licence was transferred to Enterprise Inns Plc on 6th September 2011. The Designated Premises Supervisor with effect from 20th May 2013 is Richard Shaw.

10.7 Relevant Representations

Responsible Authorities:

10.7.1 The Police Licensing Officer states: there are no Police representations in relation to this application.

10.7.2 The Environmental Health Officer states: Environmental Health have no objection to the extension in hours or the removal of the condition precluding to under 16's, as long as all of the current conditions relating to the prevention of public nuisance are transferred to the new licence.

10.7.3 There were no responses from any of the other Responsible Authorities.

Other Persons:

10.7.4 The Council has also received 24 letters of objection to this application, which have been deemed relevant. Copies of these objections are at appendices 1 to 24 of this report.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Mrs N Cadman
Designation: Licensing Officer
Tel No: 01270 685957
Email: nikki.cadman@cheshireeast.gov.uk

APPENDICES

Appendices 1 to 24 Letters of objection from interested persons.

Appendix 25	Application form.
Appendix 26	Existing Premises Licence Summary and Conditions
Appendix 27	Review Decision - Licensing Sub-Committee (26.11.2010)
Appendix 28	Plan of the area