

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING ACT SUB-COMMITTEE

Date of Meeting:	Monday 16th December 2013 at 10.00am
Report of:	Mrs N Cadman, Licensing Officer
Subject/Title:	Application to Vary a Premises Licence at Flames Balti Masala, 14 Welsh Row, Nantwich, Cheshire, CW5 5ED

1.0 Report Summary

- 1.1 The report provides details of an Application to Vary a Premises Licence 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 Mr Serkan Olgun, in respect of:

Flames Balti Masala
14 Welsh Row
Nantwich
Cheshire
CW5 5ED

- 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 objective, 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 & 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 Head of Legal Services)

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 24th October 2013, is for the grant of a variation to a Premises Licence under section 34 of the Licensing Act 2003.

10.2 The operating schedule indicates that the proposed variation is as follows: The applicant seeks to extend the hours for the provision of Late Night Refreshment and the hours the premises are open to the public, Thursday by 30 minutes and Friday and Saturday by one hour.

10.3 The hours applied for are as follows:

Late night refreshment (to take place indoors only)

Thursday	23.00 to 03.30
Friday	23.00 to 04.00
Saturday	23.00 to 04.00

Hours Premises are Open to the Public

Thursday	17.00 to 03.30
Friday	17.00 to 04.00
Saturday	17.00 to 04.00

10.4 A copy of the application form is attached as Appendix 1.

10.5 Relevant Representations

Responsible Authorities:

10.6.1 The Police in their response state: The premises are already licensed to provide Late Night Refreshment as late as 03:00 on certain nights and as a result already provide an incentive and encouragement for people at the end of the night to resort to the area and remain in the vicinity instead of going home. The resulting noise and disorder already undermines the Public Nuisance licensing objective and licensing the premises to operate even further into the small hours will simply exacerbate the current situation.

The premises are already licensed to provide Late Night Refreshment as late as 03:00 on certain nights and as a result have been a focus for anti social behaviour and disorder both at the premises and in its immediate environs. Licensing the premises to operate even further into the small hours will simply exacerbate the current situation and in doing so undermine the Crime and Disorder licensing objective.

The Chief Officer of Police objects to this application on the basis that extending the existing hours at the premises will undermine both the Public

Nuisance and Crime and Disorder Licensing Objectives and will amplify this objection to a Sub-Committee at the Hearing.

10.6.2 The Environmental Health Authority state in their response: The application is approved subject to conditions. The following conditions should be applied for the prevention of public nuisance:

1. There shall be notices located at the exit(s) requesting that customers leaving the premises do so quietly and with consideration to neighbours.

2. Where the premises provide food for consumption off the premises, the public area immediately surrounding the premises shall be cleared of waste food, food containers, wrapping etc regularly during the stated operating hours and at the end of trading on each day. Such refuse shall be placed in a container designed for the storage and disposal of refuse and waste foods which shall be constructed, maintained and located so that access to it by vermin and unauthorised persons is prevented and arrangements shall be made for the regular lawful disposal of their contents.

Agreement has been received from the applicant, to the above conditions.

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

Other Persons:

10.6.3 The Council has received a representation from Nantwich Town Council in relation to this application. A copy of this representation is attached as Appendix 2 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

Appendix 1 – Premises Licence application form

Appendix 2 - Representation from Nantwich Town Council

Appendix 3 – Existing Premises Licence and Conditions.

Appendix 4 – Map of area.