

# CHESHIRE EAST COUNCIL

## REPORT TO: LICENSING ACT SUB-COMMITTEE

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<b>Date of Meeting:</b>	<b>Wednesday 7<sup>th</sup> May 2014 at 9.30am</b>
<b>Report of:</b>	Mrs N Cadman, Licensing Officer
<b>Subject/Title:</b>	<b>Application to Vary a Premises Licence at The Cobbles Tea Room, 5 Church View, Holmes Chapel, Cheshire, CW4 7AG</b>

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### 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 Mrs Janet Hulley for The Cobbles Tea Room Ltd in respect of:

The Cobbles Tea Room  
5 Church View  
Holmes Chapel  
Cheshire  
CW4 7RG

- 2.2 The premises currently benefits from a Premises Licence issued on 17<sup>th</sup> April 2010 which is set out at appendix 1.
- 2.3 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. The licensing objectives are:
- (a) The prevention of crime and disorder
  - (b) Public safety
  - (c) The prevention of public nuisance
  - (d) The protection of children from harm
- 2.4 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 application and relevant representations in light of the current and proposed operating schedules.
- 2.5 The Sub-Committee in respect of this application must have regard to the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy.

2.6 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 and the Council's Constitution.

### **4.0 Wards Affected**

4.1 Dane Valley

### **5.0 Local Ward Members**

5.1 Cllr Les Gilbert  
Cllr Andrew Kolker

### **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.

6.2 Whilst having regard to the general principles within the Statement, Members may wish to consider the following:

#### **6.2.1 *Planning and need for Licensed Premises***

*4.1 When exercising its licensing functions the Licensing Authority will not be influenced by questions of need. The issue of whether or not there is a need for a particular premises is a commercial matter, which is not relevant to the Licensing Authority's considerations.*

*4.2 The Planning Regulation and Licensing Regulation functions are separate statutory regimes. The Licensing Authority recognises that there should be a clear separation of the planning, building control and licensing regimes in order to avoid duplication. The Licensing Authority when exercising its licensing functions will not consider whether there has been any alleged breach of planning conditions. Planning Permission will usually be required prior to the use of premises for Licensable Activities.*

6.2.2 The majority of representations relate to the Prevent of Public Nuisance Objective. The Licensing Authority sets out a paragraph 9 of its Statement of Licensing Policy how it will deal with representations under this objective.

6.2.3 The Statement of Licensing Policy also deals with issues of Anti-social behaviour at paragraph 6 and the Prevention of Crime and Disorder at paragraph 7.

6.3 Consideration must also be given to the relevant sections of the Guidance issued under section 182 of the Licensing Act 2003.

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

## **7.0 Financial Implications**

7.1 Not applicable.

## **8.0 Legal Implications**

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.

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

8.3 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 re-offending.

## **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 14<sup>th</sup> March 2014, is for the variation of a Premises Licence under section 34 of the Licensing Act 2003.

10.2 The operating schedule indicates that the relevant licensable activities applied for extension of hours are:

- § Sale and supply of alcohol
- § Recorded Music

10.3 The hours applied for are as follows:

**Sale and supply of alcohol (for consumption on the premises only)**

Monday to Saturday 11.30hrs to 22.00hrs  
Sunday 11.30hrs to 15.00hrs

**Recorded Music (to take place indoors only)**

Monday to Saturday 08.30hrs to 23.00hrs  
Sunday 11.00hrs to 16.00hrs

**Hours Premises are Open to the Public**

Monday to Saturday 08.30hrs to 23.00hrs  
Sunday 11.00hrs to 16.00hrs

10.4 A copy of the application form is attached as Appendix 2.

10.5 Relevant Representations

Responsible Authorities:

10.5.1 The Police in their response state: Can I take this opportunity to acknowledge receipt of the following application and ask you to note the condition below agreed with the applicant: Premise application, Janet Hulley, The Cobbles Tearoom, 5 Church View, Holmes Chapel, CW4 7AG. Condition: The proof of age scheme 'Challenge 25' will be operated for all sales of alcohol. Please forward a copy of the Premises Licence at your convenience.

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

Other Persons:

10.5.3 The Council has received 5 written objections from local residents. Copies of these representations are attached as Appendices 3 - 7 of this report.

10.5.4 The Council has also received a letter of support from a local resident, a copy of this is attached as Appendix 8 of this report, and a petition in support of the application, a copy of this is attached as Appendix 9 of this report.

10.5.5 The Council has received a letter from the applicant to address some of the concerns raised in the representations and a copy of this is attached at Appendix 10 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  
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Email: nikki.cadman@cheshireeast.gov.uk

**APPENDICES**

Appendix 1 - Existing Premises Licence Summary with conditions and plan

Appendix 2 - The Application to Vary a Premises Licence

Appendix 3 - 7 written objections

Appendix 8 - Written support

Appendix 9 - Petition in support of the application

Appendix 10 - Applicant's letters to address objections

Appendix 11 - Map of area