

# CHESHIRE EAST COUNCIL

## REPORT TO: LICENSING SUB-COMMITTEE

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**Date of Meeting:** Monday 23<sup>rd</sup> November 2009  
**Report of:** Mrs N Cadman, Licensing Officer  
**Subject/Title:** Application for a Premises Licence Variation - The Ox-Fford,  
73 Oxford Road, Macclesfield, Cheshire, SK11 8JG

### **1.0 Report Summary**

- 1.1 The report provides details of an application for the variation of a premises licence together with information as to representations received in relation to the application.

### **2.0 Recommendations**

The Licensing Sub-Committee is requested to determine the application for a Premises Licence variation by Mr David John Cavanagh in respect of The Ox-Fford, 73 Oxford Road, Macclesfield, Cheshire, SK11 8JG.

### **3.0 Reasons for Recommendations**

- 3.1 The Licensing 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 Macclesfield West

### **5.0 Local Ward Members**

Cllr Darryl Beckford  
Cllr Sandy Bentley  
Cllr Martin Hardy

### **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 for Transition Costs (Authorised by the Borough Treasurer)**

- 7.1 Not applicable.

### **8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

- 8.1 Not applicable.

## **9.0 Legal Implications (Authorised by the Borough Solicitor)**

- 9.1 In accordance with the provisions of section 35 of the Licensing Act 2003 in determining the application the Licensing Authority must, having regard to the representations, take such steps (if any) as it considers necessary for the promotion of the licensing objectives. Section 35(4) provides that the authority may (a) modify the conditions of the licence; or (b) to reject the whole or part of the application.

## **10.0 Risk Management**

- 10.1 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.

## **11.0 Background and Options**

- 11.1 The application is for Premises Licence variation under section 34 of the Licensing Act 2003
- 11.2 The operating schedule indicates that the relevant licensable activities applied for are: live music, anything of a similar description to live and recorded music and dance, provision of facilities for making music, provision of facilities for dancing and provision of facilities for entertainment of a similar description to making music and dancing.
- 11.3 The hours applied for are as follows:

### **Live Music**

(to take place indoors only)  
Monday to Sunday 20.00 to 23.15

### **Anything of similar description to live music, recorded music and dance**

(to take place indoors only)  
Monday to Sunday 20.00 to 23.15

From the end of permitted hours on New Years Eve to the commencement of permitted hours on New Years Day.

### **Provision of facilities for making music**

(to take place indoors only)  
Monday to Sunday 20.00 to 23.30

From the end of permitted hours on New Years Eve to the commencement of permitted hours on New Years Day.

### **Provision of facilities for dancing**

(to take place indoors only)  
Monday to Sunday 20.00 to 23.30

From the end of permitted hours on New Years Eve to the commencement of permitted hours on New Years Day.

**Provision of facilities for entertainment similar to music and dance**

(to take place indoors only)

Monday to Sunday 20.00 to 23.30

From the end of permitted hours on New Years Eve to the commencement of permitted hours on New Years Day.

Other times the premises are proposed to be open:

Monday to Saturday 11.00 to 01.30

Sunday 12.00 to 00.30

From the end of permitted hours on New Years Eve to the commencement of permitted hours on New Years Day.

11.3.1 Designated Premises Supervisor: Mr David John Cavanagh

11.4 The operating schedule includes the following steps to promote the licensing objectives: As existing Premises Licence, with the addition of 'sound levels shall be monitored by the licence holder or staff at the premises so as not to produce public nuisance'.

11.6 Relevant Representations

Responsible Authorities

11.6.1 The Police state in their response: No objections.

11.6.2 The Environmental Health Officer states in his response:

Background:

The Ox-Fford Public House has applied for a variation to their existing licence to allow live music to be played indoors seven days a week from 20:00 – 23:15.

The current premises licence does not allow live music at any time.

Previous Complaint History:

This office received two complaints on 29 June 2009 alleging a noise disturbance caused by loud music played outdoors. The outdoor event was covered by a TEN, and took place on 27 June 2009.

An additional complaint was received on 7 August 2009 concerning music noise from the premises, and vandalism in the area.

As a result of the complaints and as part of the investigation a multi agency visit was made to the premises on 8 September 2009. Discussions were held with Mr Cavanagh regarding managing the impact of noise and people when leaving the premises.

Since these events, there have been 4 live music events at the premises, covered under temporary event notifications, all of which finished at 23:00 hours;

26 September 2009	Live Music Night
3 October 2009	Karaoke Night
9 October 2009	Live Music Night
17 October 2009	Acoustic Band

This office has not received complaints relating to any of the above events.

### **Current Application**

Following the application for a variation, a visit was made to the premises. It is noted the premises has thermal double glazing only, and does not benefit from air conditioning.

Previous complaints indicate there is potential for noise to cause a disturbance, however the only complaint received in this office relating to live music concerned an outdoor event.

I am mindful, however, that on four occasions since the initial complaints were received, the applicant has held live music events inside the premises until 23:00, which have not generated complaint. All these events were held on a Friday or Saturday.

With this in mind, and on balance, in order to safeguard the residents from public nuisance, it would be considered reasonable to grant a variation with the following hours;

<b>Sunday to Thursday:</b>	<b>20:00 -</b>	<b>22:00</b>
<b>Friday and Saturday:</b>	<b>20:00 -</b>	<b>23:00</b>

In addition, in order to mitigate potential noise issues during the above hours, a condition should be attached to ensure that doors and windows are kept closed whilst live music is taking place.

### **Recommendation**

This office would not object to the application for a variation to the hours outlined above, subject to the attachment of a condition ensuring that doors and windows remain closed whilst live music is played.

It is understood the above is agreeable to the applicant.

11.6.3 Cheshire Fire Service: No response received.

11.6.4 Local Planning Authority – No response received.

11.6.5 Area Child Protection Committee – No response received.

11.6.5 Health and Safety Officer – No comments.

11.6.6 Trading Standards – No response received.

## Interested Parties

The Licensing Authority has received a number of representations, by way of individual letters and a petition from neighbour objectors and details of this are appended to this report.

### **12.0 Overview of Year One and Term One Issues**

12.1 Not applicable

### **13.0 Access to Information**

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

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## **APPENDICES**

Appendices 1 – 77 Neighbour representations plus petition and additional information  
Appendix 78 – Letter of agreement to EHO from applicant Mr D J Cavanagh  
Appendix 79 - Copy of existing Premises Licence and conditions  
Appendix 80 – Plan of area