

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING COMMITTEE

Date of Meeting: Thursday 7th January 2010 at 10.00am
Report of: Mrs N Cadman, Licensing Officer
Subject/Title: Application for a Premises Licence Variation – Repent Nightclub, 84B Mill Street, Macclesfield, Cheshire.

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 Committee is requested to determine the application to vary a Premises Licence made by Mrs Laura Jayne Hatton-Garside in respect of Repent Nightclub, 84B Mill Street, Macclesfield, Cheshire.

3.0 Reasons for Recommendations

- 3.1 The Licensing 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 Town

5.0 Local Ward Members

Cllr S Broadhurst
Cllr D A Neilson
Cllr Mrs E C Tomlinson

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 Section 35(5) of the 2003 Act states that for the purposes of an application to vary a Premises Licence under section 34, 'relevant representations' means representations which -
- (a) are about the likely effects on the grant of the application on the promotion of the licensing objectives (i.e. the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm), and
 - (b) meet the requirements of sub-section (6)

Sub-section 35(6)(a) provides that the requirements include "that the representations are made by an interested party or a responsible authority within the period prescribed under section 17(5)(c) by virtue of section 34(5)" (the prescribed period for these purposes is the period of twenty-eight consecutive days starting on the day after the day on which the application was given to the licensing authority).

An 'interested party' for the purpose of the Act (as defined by section 13(3)) means:

- (a) a person living in the vicinity of the premises;
- (b) a body representing persons who live in that vicinity;
- (c) a person involved in a business in that vicinity; and
- (d) a body representing persons involved in such businesses.

- 9.2 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) 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 the variation of a Premises Licence under section 34 of the Licensing Act 2003.
- 11.2 The operating schedule indicates that the application is to vary the Premises Licence in order to authorise the provision of "lapdancing, full strip."
- 11.3 The hours applied for are as per the existing licence (a copy of the Premises Licence Summary is attached to this report as Appendix 38).
- 11.3.1 The Designated Premises Supervisor is Mr Roy Garside

The operating schedule indicates that the steps to promote the licensing objectives will be as shown on the existing Premises Licence (see Appendix 38).

- 11.6 Relevant Representations

Responsible Authorities

11.6.1 The Police state in their response: Application received 10th November 2009 for the variation of the Premises Licence to include Lap Dancing at Repent, 84B Mill Street, Macclesfield.

The premises have been run by the current Proprietors since August 2008, during that period there have been a high number of reports of underage drinking taking place, several assaults involving underage persons, drug abuse witnessed where arrests were made and irresponsible drinks promotions offered where customers could drink all they wanted for £6, as a result the current Designated Premises Supervisor Roy Garside was given an Action Plan on the 10th September 2009, since then there has been no reports of drug abuse or underage drinking, however, there have been issues with them operating under 18's nights although very few incidents have occurred inside the premises, Public Order issues have been cause for concern outside the premises.

This application is a substantial change in operating conditions and to exasperate matters, current conditions have been ignored despite several reminders, for example:

Condition 4:

There shall be an ID Scan System in operation at the premises. (The Proprietors have indicated that this will be in place soon).

Condition 13:

Challenge 21 shall be fully embraced and to enforce this the operator shall install a Scanner Identification System before any new Premises Licence becomes effective. (This simply helps to reinforce Condition 4).

On recent Police visits a copy of the Licence Summary has been not been on display and unavailable when Officers have asked for it.

Police would ask that these be made a priority, it is of the utmost importance that should the application be approved Challenge 21 is fully adopted and although they have no objections to the application they would ask that prior to the premises opening as a lap dancing establishment, detailed plans be submitted showing changing facilities and areas open to performance. Current proposals are for the changing room to be positioned in an upstairs office to the right of reception, which means performers having to be escorted past customers entering and leaving, also private areas whilst proposed are not yet readily defined causing concerns for public safety and the welfare and safety of performers.

In addition, the following conditions should be attached to the licence before they are allowed lap dancing at the premises:

1. No irresponsible sales promotions of alcoholic beverages shall be offered to customers.
2. No customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.
3. A sign will be located on the premises indicating that the standard hours during which the sale of alcohol is permitted.

4. There shall be provided at the premises Door Supervisors who are registered with the Security Industry Authority from opening hours until the close of business. Door Supervisors are to be employed to such a number as the management of the premises consider are sufficient to control the entry to the premises and for the keeping of order in the premises when they are used for a licensable activity. At least one Door Supervisor shall be positioned at the entrance(s) in use at all times when adult entertainment is taking place. At least one Door Supervisor should be female.

A written record shall be kept on the premises by the Designated Premises Supervisor of every person employed on the premises as a Door Supervisor in a register kept for that purpose; that record shall contain the following details:

- (i) The Door Supervisor's name, date of birth and home address;
 - (ii) His/her security authority number;
 - (iii) The time and date he/she starts and finishes duty;
 - (iv) The time of any breaks taken whilst on duty;
 - (v) Each entry shall be signed by the Door Supervisor, that register shall be available for inspection on demand by an Authorised Officer of the Council, the Security Industry Authority or a Police Constable.
5. Signs requesting that customers leave the premises quietly shall be displayed at the exits.
6. No person under the age of 18 will be allowed on the premises at any time when licensable activities are taking place. Clear notice will be displayed at each entrance to the premises, in a prominent position, so that it can be easily read by people entering the premises saying: "NO PERSONS UNDER 18 WILL BE ADMITTED".
7. Striptease, lap dancing, pole dancing and similar performances involving nudity, partial nudity or simulated sexual acts to take place at the premises in accordance with the following:
 - (a) Safe Access to Dressing Room - safe and controlled access to the dressing room for performers shall be maintained at all times when the performance is taking place and immediately afterwards. Members of the public will not be allowed to access the dressing rooms. Dancers not performing shall not be in the licensed area in a state of undress. This includes making their way to and from the point of performance.
 - (b) Performers must be a minimum of 18 years old and a register shall be kept with their name, date of birth and home address, the time and date he/she starts and finishes; each entry shall be signed by the person concerned and that register shall be available for inspection on demand by an Authorised Officer of the Council or a Police Constable.

- (c) No Physical Contact or Information Exchange - There shall be no touching of performers by customers before, during or after the performance, other than the placing of banknotes by the customer in a garter worn by the performer for that purpose.
 - (d) There shall be no exchange of personal information between the performers and customers. Notices to this effect shall be clearly displayed at each entrance to the premises.
 - (e) Performance Area - The performance area/s shall be supervised by a member of staff at all times when performances are taking place. The management at the premises shall take all reasonable steps to ensure that customers remain seated whilst the adult entertainment is taking place.
 - (f) No Nudity Visible Outside - Entertainment, including dancing, which involve nudity or sexual performance of any kind shall not be visible from outside the premises.
 - (g) No External Adverts - There shall be no display outside the premises of photographs or other images which indicate that entertainment involving nudity or sexual performance takes place on the premises.
 - (h) CCTV system shall be extended to cover all private areas excluding the toilets and maintained to ensure quality of images with all recordings being kept for one month and made available to Police and other responsible agencies for evidential purposes.
 - (i) Where performers who are not being collected from the door of the premises by taxi or other transport, they will be chaperoned back to their vehicles by escorts provided by the licence holder. This is necessary for the safety of the persons performing in the premises.
8. A Refusal / Incident Book to be kept on the premises at all times to record refusals of entry, all age related challenges and incidents of crime to be available for examination by a Constable or relevant Authority for a minimum of 12 months.

11.6.2 Environmental Health – no response received.

11.6.3 Cheshire Fire Service – no response received.

11.6.4 Local Planning Authority – no response received.

11.6.5 Local Safeguarding Children Board – covered by Police response.

11.6.5 Health and Safety Officer –no response received.

11.6.6 Trading Standards – no response received.

Interested Parties

The Licensing Authority has received representations from a number of interested parties, copies of these representations are appended to this report.

The Licensing Authority has received a high volume of additional representations relating to this application, however, as set out within the legal implications at paragraph 9, only representations from 'interested parties' as defined within the Act are deemed to be relevant.

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 – 35 & 39 Representations from interested parties.

Appendix 36 – Additional information relating to requested conditions to be attached to the Licence from the Police and agreement from applicants.

Appendix 37 – Plan of area

Appendix 38 – Copy of existing Premises Licence Summary & Conditions.