

# CHESHIRE EAST COUNCIL

## REPORT TO: LICENSING ACT SUB-COMMITTEE

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<b>Date of Meeting:</b>	<b>10.00AM Wednesday 10<sup>th</sup> May 2017</b>
<b>Report of:</b>	<b>Jennifer Knight, Licensing Officer</b>
<b>Subject/Title:</b>	<b>Application for a Variation to the Premises Licence at Boars Head, Walgherton, Nantwich, CW5 7LA</b>

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### 1.0 Report Summary

1.1 The report provides details of an application for a Variation to 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 for a Variation to a premises licence by Orange Tree Bar and Grill Limited in respect of:

**Boars Head  
Walgherton, Nantwich, CW5 7LA**

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. 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

2.3 Members of the Licensing Sub-Committee are reminded that they may not exercise discretion in any case, merely because it considers it desirable to do so. Careful consideration should be given to application and relevant representations in light of the proposed operating schedules.

2.4 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.

2.5 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**

Wybunbury

### **5.0 Local Ward Members**

Councillor Janet Clowes

### **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 The representations relate to the Prevention of Crime and Disorder and the Prevention of Public Nuisance Licensing Objectives. The Licensing Authority sets out at paragraphs 7 and 9 respectively, of its Statement of Licensing Policy how it will deal with representations under these objectives. At paragraph 9.1 the Statement of licensing policy confirm that a broad interpretation of what constitutes a public nuisance will be taken
- In considering the potential impact of licensed premises on the surrounding locality the Licensing Authority, when in receipt of any Relevant Representations will take into account the type of entertainment activity proposed hours of operation, the capacity of the premises, the character of the areas and the proximity to local residents. Consideration will be given to the potential steps which could be taken to reduce the risk of nuisance occurring. This will particularly apply in areas where there is residential accommodation in the proximity of the premises. Para 9.2
- The Statement of Licensing Policy has a specific section relating to noise nuisance. This section is reproduced for the benefit of the sub-committee at appendix 3

6.3 Members should provide reason(s) for any decision taken and should set out the 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 was initially received on the 10<sup>th</sup> March 2017. The application is for a Variation to a Premises Licence under Section 34 of the Licensing Act 2003.
- 10.2 The operating schedule indicates that the relevant licensable activities applied for are:

To vary the internal layout of the premises

The addition of late night refreshment to the licence 23.00 – Midnight

The applicant has applied to remove four conditions from the licence

- Children not allowed on the premises after 9:30PM
- No amplified music
- Cigarette machine positioned to be clearly visible from behind the bar servery
- No smoking area for family use

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

**Late Night Refreshment**

10.3 The hours applied for are as follows:

23.00 - Midnight

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

10.5 Relevant Representations are attached as Appendix 2.

Responsible Authorities:

10.8 Cheshire Police have no representations to the application

10.7 Environmental Protection have no representations to the application

Other Persons:

10.6 The Council has received one objection from the public to the application

**11.0 Access to Information**

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

Name: Miss Jennifer Knight

Designation: Senior Licensing Officer

Tel No: 01270 686337

Email: Jennifer.knight@cheshireeast.gov.uk

**APPENDICES**

Appendix 1 – Premises Licence Application Form

Appendix 2 – Objection

Appendix 3 – Relevant parts of Licensing Policy

Appendix 4 – Premises Licence Summary

Appendix 5 – Site plan of premises