

# CHESHIRE EAST COUNCIL

## REPORT TO: LICENSING SUB-COMMITTEE

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<b>Date of Meeting:</b>	Wednesday 7 <sup>th</sup> July 2010 at 09.30am
<b>Report of:</b>	Mrs N Cadman, Licensing Officer
<b>Subject/Title:</b>	<b>Application for Variation of a Premises Licence Panacea, London Road, Alderley Edge, Cheshire.</b>

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### **1.0 Report Summary**

- 1.1 The report provides details of an application for a premises licence variation, 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 the variation of a Premises Licence by Playworks Ltd in respect of Panacea, London Road, Alderley Edge, Cheshire.

### **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 Alderley Ward

### **5.0 Local Ward Members**

Cllr Frank Keegan  
Cllr Carolyn Andrew  
Cllr Elizabeth Gilliland

### **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 Where relevant representations are received in relation to an application for the variation of a Premises Licence under section 34, the Licensing Authority must hold a hearing within 20 working days (of the end of the consultation period) to consider both the application and the relevant representations.
- 9.2 Section 35 of the 2003 Act provides that before determining the application, the authority must hold a hearing to consider it and any relevant representations. In accordance with the provisions of section 35 of the 2003 Act, the authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives. Sub-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 proposed variation is:
- i. to extend the existing times for licensable activities
  - ii. permit regulated entertainment on the external terrace of the premises
  - iii. to remove and replace condition 17 in Annex 2 of the existing Premises Licence (i.e. there shall be no external speakers operated at the premises).

(copies of the plan showing the external area will be made available at the meeting)

- 11.3 The hours applied for are as follows:  
**Live Music** (to take place indoors and outdoors)  
Monday to Saturday 10.00 to 04.00  
Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks go forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on 31st December to the terminal hour for licensable activities on 1st January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

**Recorded Music** (to take place indoors and outdoors)  
Monday to Saturday 10.00 to 04.00  
Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks go forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on 31st December to the terminal hour for licensable activities on 1st January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

**Performance of Dance** (to take place indoors only)

Monday to Saturday 10.00 to 04.00

Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks go forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on 31st December to the terminal hour for licensable activities on 1st January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

**Film Exhibitions** (to take place indoors only)

Monday to Saturday 10.00 to 04.00

Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks go forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on terminal hour for licensable activities. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

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

Monday to Saturday 10.00 to 04.00

Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks go forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on 31st December to the terminal hour for licensable activities on 1st January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

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

(to take place indoors and outdoors)

Monday to Saturday 10.00 to 04.00

Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks go forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on 31st December to the terminal hour for licensable activities on 1st January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

**Provision of facilities for making music** (to take place indoors and outdoors)

Monday to Saturday 10.00 to 04.00

Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks go forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on 31st December to the terminal hour for licensable activities on 1st January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

**Provision of facilities for dancing** (to take place indoors only)

Monday to Saturday 10.00 to 04.00  
Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks go forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on 31st December to the terminal hour for licensable activities on 1st January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

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

(to take place indoors only)

Monday to Saturday 10.00 to 04.00  
Sunday 11.00 to 03.00

Seasonal variations: One additional hour on the night when the clocks go forward for British Summer Time each year; Annual New Year festivities - require start of permitted hours on 31st December to the terminal hour for licensable activities on 1st January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

**Late Night Refreshment** (to take place indoors only)

Monday to Saturday 23.00 to 03.30  
Sunday 23.00 to 02.30

Seasonal variations: One additional hour on the night when the clocks go forward for British Summer Time each year; Annual New Year festivities - require 23.00hrs on 31st December to 05.00 on 1<sup>st</sup> January. One additional hour for the Friday, Saturday, Sunday and Monday of a Bank Holiday weekend.

11.3.1 Designated Premises Supervisor: Mr Andrew Dutton

11.4 The operating schedule includes the following steps to promote the licensing objectives:

General – all four licensing objectives

As existing with new replacement condition 17. Regulated Entertainment in the external area shall be limited to a level agreed with the Environmental Health Officer. The provision of such regulated entertainment in this area shall cease at 01.00hrs.

11.6 Relevant Representations:

Responsible Authorities

11.6.1 The Police state in their response: Application received 20th May 2010 to extend the hours for licensable activities by one hour and to allow regulated entertainment in an external area until 01:00 hours. Whilst the Police have no objections to the increase of the terminal hour, there are concerns in relation to the anti social behaviour that may be caused should regulated entertainment be allowed externally until 01:00 hours, therefore, subject to a satisfactory agreement with the Environmental Health there are no Police objections.

11.6.2 The Environmental Health Officer states: The representation we wish to submit for consideration regarding this variation relates to the use of regulated entertainment on the external terrace. This department strongly disapproves of this aspect of the proposal. In practice there is very little control available to the council when such uses are permitted. It is acknowledged that as part of this submission the applicant has requested that we set a limit to the noise that can be agreed. Unfortunately we have found difficulty in policing such requests as there is not the ability to use a sound limiting device outside (as is the practice inside) as the acoustic environment is not conducive to such equipment. We would not be able to set a volume control to the equipment eg number 5 of 10 on the equipment as this can be tampered with and because music has such very different characteristics. What is a reasonable setting for one light base track would be wholly unsuitable for another heavy bass track.

It is understood that the premises is as new following refurbishment and as such the design specification should have taken the acoustic amelioration into account, thus we have no comments to make about the additional internal use time frames. It must be noted that the use from this “new” premises has not been a significant time frame and as such we cannot comment on the current use impact on the wider community. However, we reserve the right as laid down in the environmental protection act 1990 to investigate for nuisance any such complaints that are made. The reason for representation is that there is the strong potential for external entertainment to cause a public nuisance, and that there are no adequate, reliable, enforceable controls available. Therefore I recommend that there should be no external regulated entertainment and that there shall be no external speakers, together with the usual controls of all doors and windows to remain closed during periods of regulated entertainment to prevent the outbreak of noise, etc.

11.6.3 Cheshire Fire Service – No representation received.

11.6.4 Local Planning Authority – No representation received.

11.6.5 Local Safeguarding Children Board – As Police response.

11.6.5 Health and Safety Officer – No comments.

11.6.6 Trading Standards - I confirm receipt of the following application for a licence variation: Panacea on London Road, Alderley Edge, Cheshire. SK9 7JS, I make no representation.

### Interested Parties

The Licensing Authority has received a number of representations in the form of letters and petitions from interested parties. Details of these 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:

Name: Mrs N Cadman  
Designation: Licensing Officer  
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Email: nikki.cadman@cheshireeast.gov.uk

## **APPENDICES**

Appendices 1 to 7 – representations from local residents/interested parties.  
Appendix 8 – Existing Premises Licence Summary and conditions.  
Appendix 9 – Map of area  
Appendix 10 – Photographs of Panacea to be referred to at the Hearing.