

Licensing Act Sub Committee

Date of Meeting: 15 September 2020

Report Title: Application to Vary a Premises Licence to specify an individual as Designated Premises Supervisor (DPS)

Senior Officer: Frank Jordan - Executive Director Places

1. Report Summary

- 1.1. The report provides details of an application to vary the Designated Premises Supervisor (DPS), under section 37 of the Licensing Act 2003 and outlines the evidence presented by the parties in relation to the Variation.

2. Recommendations

- 2.1. The Licensing Act Sub-Committee is requested to determine an application to vary a Premises Licence to specify an individual as Designated Premises Supervisor (DPS) in respect of The Prince Albert, 140 Newton Street, Macclesfield SK11 6RW made by the Premises Licence Holder Mr. Simon Johnson.
- 2.2. The Licensing Act Sub-Committee is requested to consider the application and the relevant representation and determine what steps, if any, it considers are appropriate to promote the Licensing Objectives.
- 2.3. Acting in the capacity of Licensing Authority, Members must seek to promote the Licensing Objectives and where Members consider that 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 the application and the evidence presented by the parties in relation to the Application to Vary the Designated Premises Supervisor.
- 2.5. Finally, Members are also reminded that in determining the application, consideration also needs to be given to:
- a) The rules of natural justice;
 - b) The provisions of the Human Rights Act 1998.

3. 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, and provide the key reasons why the recommendation/s has/have been made. Link your reasons into appropriate council policies and corporate objectives.

4. Other Options Considered

- 4.1. Not applicable.

5. Background

- 5.1. An application to vary the Premises Licence to specify Neil Naylor as DPS was submitted under Section 37 of the Licensing Act 2003 to the Licensing Authority on 04th August 2020 by the Premises Licence Holder, Mr. Simon Johnson. The Premises Licence Holder duly notified Cheshire Police of the application.
- 5.2. An application to vary the DPS must be accompanied by a consent form completed by the proposed premises supervisor and the Premises Licence. The consent of individual to being specified as Premises Supervisor has been signed by Mr. Naylor who is the holder of a Personal Licence, number PERS3421 issued by Cheshire East Council on 04th April 2020. A copy of the application is attached at **Appendix 1**.
- 5.3. The applicant also applied to have this application to take immediate effect in accordance with section 38 of the Licensing Act 2003. A copy of the current Premises Licence is attached at **Appendix 2**.

5.4. If the Chief Officer of Police is satisfied that the exceptional circumstances of the case are such that the granting of the application would undermine the crime prevention objective, they must give the relevant licensing authority a notice why they are so satisfied within a period of 14 days beginning with the day on which they are notified of the application.

5.5. If a notice is not received from the police (or subsequently withdrawn) the Licensing Authority must grant the application.

5.6. In this case, Lesley Halliday on behalf of Cheshire Police, has submitted an Objection Notice stating that the granting of the application will undermine the prevention of crime and disorder licensing objective. A copy of the notice is attached at **Appendix 3**.

5.7. Responsible Authorities:

5.7.1. Cheshire Police have submitted an objection notice which is set out at **Appendix 3**.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. In accordance with the provisions of section 39 of the Licensing Act 2003 the Licensing Authority must in their determination of the application:

- a) having regard to the notice, reject the application if it considers it appropriate for the promotion of the crime prevention objection to do so.
- b) grant the application in any other case.

6.1.3 Members are also reminded of the statutory obligation placed on the Local Authority under section 17 of the Crime and Disorder Act 1998 to exercise its various functions, doing all that it can to prevent Crime and disorder, and Anti-Social Behaviour, behaviour adversely affecting the environment as well as the misuse of drugs, alcohol and re-offending in the Local Environment.

6.2. Finance Implications

6.2.1. There are no financial implications.

6.3. Policy Implications

6.3.1. The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003.

6.3.2. The Licensing Authority must also have due regard to the guidance issued under section 182 of the Licensing Act 2003.

6.3.3. 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.

6.4. Equality Implications

6.4.1. There are no direct equality implications.

6.5. Human Resources Implications

6.5.1. There are no human resources implications.

6.6. Risk Management Implications

6.7. The Licensing Sub-Committee will hear representations made on behalf of both the applicant and the 'relevant persons' who have submitted their representations and will make a decision on the basis of the evidence presented to it. The Licensing Act 2003 makes provision for appeal to the Magistrates' Court of any decision made by the Licensing Authority.

6.8. Rural Communities Implications

6.8.1. There are no direct implications for rural communities.

6.9. Implications for Children & Young People/Cared for Children

6.9.1. There are no direct implications for children and young people.

6.10. Public Health Implications

6.10.1 There are no direct implications for public health.

6.11. Climate Change Implications

6.11.1. There are no direct implications for Climate Change.

7. Ward Members Affected

7.1. Macclesfield Central – Councillor Liz Braithwaite

7.2. Macclesfield Central – Councillor Ashley Farrall

8. Consultation & Engagement

- 8.1. Consultation in respect of submitting an application to Vary the Premises Licence to specify a DBS is prescribed in the Licensing Act 2003 and has been fully complied with.

9. Access to Information

- 9.1. The background papers relating to this report can be made available by contacting the report writer.

10. Contact Information

- 10.1. Any questions relating to this report should be directed to the following officer:

Name: Amanda Andrews

Job Title: Licensing Enforcement Officer

Email: amanda.andrews@cheshireeast.gov.uk

Appendix 1 – Application

Appendix 2 – Cheshire Police Representation

Appendix 3 – Premises Licence