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Key Decision Y/N

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Licensing Act Sub Committee

Date of Meeting: 23rd April 2021

Report Title: Application for a full variation of the Premises Licence at The Kinderton, Kinderton Street, Middlewich, Cheshire. CW10 0JE

Senior Officer: Frank Jordan - Executive Director Places

1. Report Summary

- 1.1. The report provides details of an application for a Premises Licence, under section 17 of the Licensing Act 2003 and outlines the evidence presented by the parties in relation to the full variation application.

2. Recommendations

- 2.1. The Licensing Act Sub-Committee is requested to determine the application for a Premises Licence in respect of:

The Kinderton
Kinderton Street
Middlewich
Cheshire
CW10 0JE

- 2.2. The Licensing Act Sub-Committee is requested to consider the application and any relevant representations and determine what steps, if any, it considers are appropriate to promote the Licensing Objectives.
- 2.3. Acting in the capacity of the 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 review.

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.

4. Other Options Considered

4.1. Not applicable.

5. Background

5.1. The Kinderton is an established premises located in Middlewich that has hosted outside events under Temporary Event Notices. Several music events were applied for in a marquee under Temporary Event Notices for the Christmas period in 2018 which gave rise to noise complaints from local residents. On 28th July 2020, the premises applied to increase the hours for the sale of alcohol until midnight outdoors and this was granted with no objections received.

5.2. An application to vary the premises licence was received on 23rd February 2021, which was deemed invalid due to the absence of notices being displayed at the premises. The application was restarted on 26th February 2021 and sent out for consultation on 26th February 2021.

5.3. The operating schedule indicates that the relevant licensable activities applied for in the variation application are:

- Provision of live music
- Provision of recorded music
- Performances of dance
- Provision of late-night refreshment

5.4. The hours applied for are as followed:

- Provision of live music – Indoors and outdoors
Monday to Sunday – 11.00 to 00.00
- Provision of recorded music – Indoors and outdoors
Monday to Sunday – 11.00 to 00.00
- Provision of performances of dance – Indoors and outdoors
Monday to Sunday – 10.00 to 00.00
- Late night refreshment – Indoors and outdoors
Monday to Sunday – 23.00 to 00.00

The full details of the application are set out at appendix 1 together with a plan (layout) of the premises at appendix 2.

5.5. Responsible Authorities:

5.5.1. The Licensing Team have received no objections from the Police.

5.5.2. The Environmental Health Team have received a number of complaints in relation to events held during the Christmas period in 2018 under Temporary Event Notices. The complaints related to music being played in a marquee within the grounds of the premises and were resolved without the need for formal action. The premises also applied for a number of Temporary Event Notices for the Christmas period in 2019, no objections were raised from Environmental Health and no complaints were received from the events.

Environmental Health Team have objected to the application, the objection is set out in appendix 3.

5.6. Other Persons:

5.6.1. The Council has received no representations from any members of the public

5.7. A map of the area showing the location of The Kinderton is attached at appendix 4.

5.8. The Current Premises Licence including currently licensable activities and conditions attached to the licence is at appendix 5.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. 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 conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the authority considers appropriate for the promotion of the licensing objectives and any mandatory conditions that must be included on the licence in accordance with the Licensing Act 2003;
- b) Exclude from the scope of the licence any of the Licensable Activities to which the application relates;
- c) Refuse to specify a person in the licence as the Premises Supervisor;
- d) Reject the application.

6.1.2. Members are reminded that should any conditions be added, they should be practical, enforceable and appropriate to promote the Licensing Objectives.

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

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.

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

6.6.1. The Licensing Sub-Committee will hear representations made on behalf of both the applicant and the 'relevant person' who has submitted their representation 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.

6.7. Rural Communities Implications

6.7.1. There are no direct implications for rural communities.

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

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

6.9. Public Health Implications

6.10.1 There are no direct implications for public health.

6.10. Climate Change Implications

6.10.1. There are no direct implications for Climate Change.

7. Ward Members Affected

7.1. Sutton – Councilor Andrew Gregory.

8. Consultation & Engagement

8.1. Consultation in respect of submitting an application for a Premises Licence application 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: Tracey Billington

Job Title: Licensing Enforcement Officer

Email: Tracey.billington@cheshireeast.gov.uk

Appendix 1 – Application

Appendix 2 – Plan and Layout

Appendix 3 – Objections from Environmental Health

Appendix 4 – Map of the area