

Version
Number:

Key Decision Y/N

Date First
Published: >

Licensing Act Sub Committee

Date of Meeting: Monday 20th September 2021

Report Title: Application for a full variation of the Premises Licence at
Nakatcha, 20-22 Welsh Row, Nantwich, CW5 5ED

Senior Officer: Paul Bayley, Director of Environment and Neighbourhood Services

1. Report Summary

- 1.1. The report provides details of an application for a Premises Licence, under section 34 of the Licensing Act 2003 and outlines the evidence presented by the parties in relation to the variation application.

2. Recommendations

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

Nakatcha
20-22 Welsh Row
Nantwich
Cheshire
CW5 5ED

- 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. Nakatcha is an established premises located in Nantwich that has been the subject of previous complaints in relation to significant alcohol related assaults and crime and disorder. The most recent assault being reported in January 2019. On 25th September 2020, the premises applied for a minor variation to amend some conditions on the current premises licence, however objections were received, and the application was rejected. Where the changes applied for could have an adverse impact on the Licensing Objectives the Licensing Authority (delegated to Officers) must reject the application. This is a different test to the test applied in respect of new grant applications or full variations.

5.2. An application to vary the premises licence was received on 27th July 2021. The application was sent out for consultation on 26th July 2021 with the last

date for representations to be made by 23rd August 2021. A copy of the full application is attached to this report at **Appendix 1**.

5.3. The application seeks to vary the layout and design of the premises in accordance with the submitted plan (**Appendix 2**) and to remove the following conditions attached as Annex 3 – conditions attached after a hearing of the Licensing Authority, of the existing premises licence:

- Condition 6 – No food or drink shall be taken into or consumed in the smoking area after 23:00hrs.
- Condition 8 – The following number of door supervisors shall be provided from 21:00hrs until the closing time of the premises as follows:
 - Thursday – a minimum of 4 supervisors
 - Friday – a minimum of 6 supervisors
 - Saturday – a minimum of 6 supervisors
- Condition 9 – There shall be no entry or re-entry to the premises after 01:00hrs. For the avoidance of doubt the term premises includes the beer garden/outdoor drinking area and the smoking area.

5.4. The operating schedule indicates that the following conditions be imposed instead:

- To replace condition 6 – No food or drink shall be taken into or consumed in the smoking area (highlighted in yellow on the submitted plan) after 02:30hrs. No food or drink shall be taken into or consumed in the garden area (highlighted in blue on the submitted plan) after 01:00hrs.
- To replace condition 8 – The following number of door supervisors shall be provided from 21:00hrs until the closing time of the premises as follows:
 - Fridays, Saturdays and Sundays preceding a bank holiday – a minimum of 2 supervisors until 22:00hrs and there after a minimum of 4 supervisors until closing time.
- To replace condition 9 – There shall be no entry or re-entry after 01:30hrs however, existing customers after this time can use the smoking area.
- All hours, activities and remaining conditions currently permitted by the premises are to remain unchanged by this application.

5.5. Responsible Authorities:

5.5.1. On 19th August 2021 Cheshire Police submitted a document setting out agreed conditions. See **Appendix 3**.

5.5.2. The Licensing Team have received no objections from any other responsible authorities.

5.6. Other Persons:

5.6.1 The Council has received relevant representations from two members of the public. See **Appendix 4**.

5.7. A map of the area showing the location of Nakatcha is attached at **Appendix 5**.

5.8. The current Premises Licence, including current licensable activities and conditions attached to the licence is at **Appendix 6**.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. In accordance with the provisions of section 35(3)(b) 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 35(4) provides that the authority may:

- a) Modify the conditions of the licence
- b) Reject the whole or part of the application

6.1.2. 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. Nantwich North and West – Councillor Penny Butterill

7.2. Nantwich North and West - Councillor Arthur Moran

7.3. Nantwich South and Stapeley – Councillor Peter Groves

7.4. Nantwich South and Stapeley – Councillor Andrew Martin

8. Consultation & Engagement

- 8.1. Consultation in respect of submitting an application to Vary a Premises Licence 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 – Plan submitted as part of the application

Appendix 3 - Police agreed conditions

Appendix 4 – Residents Representations

Appendix 5 – Map of area

Appendix 6 – Current Premises Licence