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Key Decision Y/N

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## Licensing Act Sub Committee

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**Date of Meeting:** 15th February 2022

**Report Title:** Application for a full variation of the Premises Licence at Hide & Seek Festival Ltd, Capesthorpe Hall & Grounds, Congleton Rd, Siddington, Macclesfield, SK11 9JY

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

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### 1. Report Summary

- 1.1. The report provides details of an application to vary 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:

Hide & Seek Festival Ltd  
Capesthorpe Hall & Grounds,  
Congleton Rd,  
Siddington,  
Macclesfield  
SK11 9JY

- 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. Hide & Seek Festival Ltd at Capesthorne Hall & Grounds currently holds a Premises Licence issued by Cheshire East Council, namely Premises Licence No. PREM1344, which was granted on 14<sup>th</sup> June 2021. A copy of such licence is attached to this report at **Appendix 1**.

5.2. On 22<sup>nd</sup> December 2021 Cheshire East Council's Licensing department received from the Premises Licence Holder an application made under Section 34 of the Licensing Act 2003 to vary their Premises Licence. Specifically, the application seeks to:

*"Vary [Annex 2 - Condition 33] to amend text from "... on one day per calendar year" to the full condition text of; "Licensable activities shall be permitted to*

*take place under this license on two days per calendar year (plus dispersal time in the early hours of the following morning). The days on which these activities are to take place shall be notified to Cheshire East Council Licensing Authority and Environmental Health Team and Cheshire Constabulary at least 120 days prior to any proposed event."*

A copy of the application is attached to this report at **Appendix 2**.

5.3. The application was published for public consultation on 22<sup>nd</sup> December 2021, with the last date for representations to be made by 19<sup>th</sup> January 2022.

5.4. **Responsible Authorities:**

5.4.1. On 22<sup>nd</sup> December 2021 the application was sent to Responsible Authorities for consultation.

5.4.2. On 22<sup>nd</sup> December 2021 Cheshire Police confirmed via email to the Licensing Authority that they had no objections to the application. A copy of Cheshire Police's email is attached to this report at **Appendix 3**.

5.4.3. The Licensing Authority have not received any further representations from the remaining Responsible Authorities.

5.5. **Other Persons:**

5.5.1. On 19<sup>th</sup> January 2022 the Licensing Authority received a valid objection to the application via email, a copy of which is attached to this report at **Appendix 4**.

5.6. A map of the area showing the location of Hide & Seek Ltd at Capesthorne Hall and Grounds is attached at **Appendix 5**.

## 6. Implications of the Recommendations

### 6.1. Legal Implications

6.1.1. The Sub Committee must determine this application in accordance with S.35 of the Licensing Act 2003. To do so otherwise would render its determination unlawful and invalid.

6.1.2. In accordance with the provisions of section 35(3)(b) of the Licensing Act 2003 the Sub Committee must, having regard to the representations, made in this application take such steps (if any) as it considers appropriate for the promotion of the licensing objectives.

6.1.3. Section 35(4) provides that the authority may only:

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

6.1.4. 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.

6.1.5. Members may not extend the period for which the licence has effect.

6.1.6. Members may not vary substantially the premises to which the licence relates.

6.1.7. Members may vary the premises licence so that it has effect subject to different conditions in respect of different parts of the premises or different licensable activities.

6.1.8. Members must determine when any variation if granted, is to take effect.

6.1.9. Members must give reasons for their determination and notice of it must be communicated to the parties to this application.

## 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. Gawsworth – Councillor Lesley Smetham

7.2. Chelford – Councillor Marc Asquith

### **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: Martin Kilduff

Job Title: Licensing Enforcement Officer

Email: [martin.kilduff@cheshireeast.gov.uk](mailto:martin.kilduff@cheshireeast.gov.uk)

Appendix 1 – Current Premises Licence PREM1344

Appendix 2 – Application to Vary Premises Licence

Appendix 3 - Police email – no objections.

Appendix 4 – Objection from member of the public

Appendix 5 – Map of area