

Licensing Act Sub Committee

Date of Meeting: 22nd February 2022

Report Title: Application for a Premises Licence at Swish Lounge, 31 Mill Street, Crewe, Cheshire, CW2 7AJ

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 17 of the Licensing Act 2003 and outlines the evidence presented by the parties in relation to the new grant application.

2. Recommendations

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

Swish Lounge
31 Mill Street
Crewe
Cheshire
CW2 7AJ

- 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 application for a premises licence was received on the 19th November 2021 however due to issues with the application regarding missing and contradicting information it was not sent for consultation. The application was completed and valid as of the 30th November 2021 and sent out for consultation on the same day.
- 5.2. On the 3rd December 2021 the applicant contacted our Customer Contact Centre to inform us that a notice had been put in a locally circulated newspaper however the details of which were incorrect with regards to the times for entertainment. We informed the applicant to readvertise with the correct timings as this was still within the 10-working day requirement set in the Licensing Act 2003.
- 5.3. On the 6th December 2021 a Licensing Enforcement Officer visited the premises to inspect the notices. The officer confirmed that notices were up at the premises and being displayed correctly.

- 5.4. On the 7th December 2021 Licensing received a revised application form from the applicant reducing the originally applied for licensable hours after having talks with Environmental Health and Cheshire Police.
- 5.5. On the 15th December 2021 we received confirmation that the notice had been readvertised in a locally circulated paper with the correct information that was originally applied for although this was a day over the 10-working day requirement. However, the Licensing Team determined that the consultation should continue as normal and did not require a restart. In the case of R (on the application of Akin) v Stratford Magistrates Court [2014] EWHC 4633 (Admin) dealt with the validity of notices and confirms that substantial compliance with the relevant regulations (38 and 39 taken as a whole) is sufficient for the process to be deemed valid. This follows and reiterates previous case law concerning procedural defects. The information provided by Officers in relation to the notices supports that substantial compliance, insofar as Mr Abdullah Anik actions allowed, has been achieved
- 5.6. The applied for operating schedule indicates that the relevant licensable activities applied for are:
- Provision of recorded music indoors
 - Provision of performance of dance indoors
 - Provision of anything of a similar description to that falling within live music, recorded music or performance of dance indoors
 - The sale and supply of alcohol for consumption on the premises
- 5.7. The hours applied for are as followed:
- Recorded music
Monday to Sunday 11:00 to 23:00
 - Performance of dance
Sunday 20:00 to 21:00
 - Anything of a similar description to that falling within live music, recorded music or performance of dance
Monday to Sunday 09:00 to 23:00
 - Sale and supply of alcohol
Monday to Sunday 11:00 to 22:45

The full details of the application are set out at **Appendix 1**.

5.8. Responsible Authorities:

5.8.1. The Licensing Team have received agreed upon conditions from both Cheshire Police and Environmental Protection to be added to the licence if granted. These conditions are set out at **Appendix 3**.

5.9. Other Persons:

5.9.1. The Council has received 2 representations against the application which are set out at **Appendix 2**. The reductions in hours and conditions agreed with the responsible authorities were communicated to the objectors. This was done so that they could withdraw their objection if the changes alleviated their concerns. No response was received from either objector and their representations remain live.

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. Crewe South – Councilor Steven Hogben

7.2. Crewe South – Councilor Laura Smith

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: Nathan Murphy

Job Title: Acting Senior Licensing Officer

Email: nathan.murphy@cheshireeast.gov.uk

Appendix 1 – Application and plan

Appendix 2 – Representations submitted from Other Persons

Appendix 3 – Cheshire Police and Environmental Protection Conditions

Appendix 4 – Map of area