

Licensing Act Sub Committee

Date of Meeting: 11th May 2022

Report Title: Application for a variation to a Premises Licence at:
The Royal Oak, 94 Main Road, Worleston, Nantwich, CW5 6DN

Senior Officer: Paul Bayley –
Director of Neighbourhood & Environmental Services

1. Report Summary

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

2. Recommendations

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

The Royal Oak
94 Main Road
Worleston
Nantwich
CW5 6DN

- 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 application.

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. On 14th March 2022 an application was received by the Licensing Department for the variation of a Premises Licence in respect of The Royal Oak, 94 Main Road, Worleston, Nantwich, CW5 6DN. The application was then sent for consultation. The last date for representations to be made was 11th April 2022.

5.2. The application seeks to vary the plan attached to the Premises Licence by way of adding a sixty-seat brick built standard construction dining room and a further outdoor open walled shelter for outdoor dining.

5.3. The applicant has set out the opening hours of the premises with the application form. Those times are provided within the following table:

| | Open | Close |
|---------------|-------------|--------------|
| Monday | 12:00 | 23:00 |

| | | |
|------------------|-------|-------|
| Tuesday | 12:00 | 23:00 |
| Wednesday | 12:00 | 23:00 |
| Thursday | 12:00 | 23:00 |
| Friday | 12:00 | 00:00 |
| Saturday | 10:00 | 00:00 |
| Sunday | 10:00 | 22:00 |

5.4. No changes to relevant times or the types of Licensable Activities authorised under the Premises Licence have been sought within this application. The application to vary the Premises Licence relates only to the plan.

5.5. A copy of the application form is attached to this report at **Appendix 1**.

5.6. Plans submitted with the application are attached at **Appendix 2 & Appendix 3**.

5.7. A copy of the extant Premises Licence is attached at **Appendix 4**.

5.8. A copy of the extant plan of the premises is attached at **Appendix 5**.

5.9. To assist Members with the location of the premises a further map is attached at **Appendix 6**.

5.10. A Licensing Enforcement Officer from Cheshire East Council inspected valid statutory notices required to be displayed at the premises on 24th March 2022. The application was also correctly advertised in a local newspaper.

5.11 Representations:

5.10.1. The Council has received three representations against the application from members of the public. Copies of the representations are attached to this report at **Appendix 7 to Appendix 9**.

5.12 Responsible Authorities:

5.12.1 Cheshire Constabulary have agreed Conditions with the applicant. A copy of those agreed Conditions is attached at **Appendix 10**.

5.12.2 No representation has been received from Environmental Protection.

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 Licensing Authority 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

6.1.3 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.

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

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

6.1.6 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.

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

6.1.8 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 Cllr Sarah Pochin
- 7.2 Cllr Margaret Simon
- 7.3 Cllr Jacqueline Weatherill

8 Consultation & Engagement

- 8.1 Consultation in respect of submission of an application for a variation to 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: Richard Hellon
Job Title: Licensing Enforcement Officer
Email: Richard.hellon@cheshireeast.gov.uk

Appendices:

Appendix 1 – Application Form

Appendix 2 & 3 – Plans submitted with application

Appendix 4 – Extant Premises Licence

Appendix 5 – Extant plan of premises

Appendix 6 – Map of area

Appendix 7 to 9 – Representations from members of the public

Appendix 10 – Agreed Conditions from Cheshire Constabulary