

DECISION NOTICE

LICENSING ACT 2003

Applicant:	Mr Abdullah Anik 29 Mill Street Crewe CW2 7AJ
Application:	Premises Licence
Premises:	31 Mill Street Crewe CW2 7AJ
Application Hearing:	22 nd February 2022
Committee:	Licensing Act Sub Committee of Cheshire East Council

Committee Decision

The application for a Premises Licence at 31 Mill Street, Crewe, is granted with Additional Conditions.

Additional Conditions

The following conditions shall apply to the Premises Licence:

- Noise emanating from the Premises shall not be clearly audible at the boundary of the nearest residential property.
- Noise emanating from the Premises shall not be clearly audible at the boundary of noise sensitive properties.
- All external windows and doors at the Premises shall be closed whilst live and recorded music or anything of a similar description to live or recorded music or dance is taking place inside the Premises except for normal access and egress purposes.
- Regular noise assessments shall be undertaken by a competent person (either the Licensee or Manager) around the boundary of the Premises when live and recorded music or anything of a similar description to live or recorded music or dance is taking place inside the Premises and steps shall be taken to reduce the level of noise where it is likely to cause a disturbance to local residents.
- The noise assessments shall be undertaken during the operating hours of the Premises.

- A written record shall be made of those assessments in a log book, kept for that purpose and shall include; the time and date of the checks, the person making them, and in what location and the outcome - including any remedial action in order to reduce the level of noise where it is likely to cause a disturbance to local residents.
- There shall be no disposal of bottles outside the premises between the hours of 21.00 and 09.00.
- No disposal of refuse outside the premises or deliveries made to the premises between 21.00 and 0700.
- A CCTV system shall be in operation at all times licensable activities are taking place at the Premises.
- Recorded CCTV images will be maintained and stored for a period of twenty-eight days.
- A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member shall be able to provide a Police officer or an authorised officer of the licensing authority data or footage upon request.
- Designated supervisors will need to be able to demonstrate the following:
 - Recordings are fit for their intended purpose.
 - Good quality images are presented to the officer in a format that can be replayed on a standard computer.
 - The supervisor has an understanding of the equipment/training.
 - Management records are kept,
 - Maintenance agreements and records are maintained,
 - Data Protection principles and signage are in place.
- A Challenge 25 policy shall be operated at the Premises at all times.
- The only forms of ID that shall be accepted (at the discretion of the Management) as proof of age are:
 - A valid passport.
 - A valid photographic driving licence.
 - A PASS approved proof of age card.
 - A HM Services Warrant Card or other reliable photo ID (that has been approved for acceptance by the Police or an Officer of the Local Authority).
- Publicity materials notifying customers of the operation of the Challenge 25 scheme shall be displayed at the premises.
- The Designated Premises Supervisor or Premises Licence Holder shall operate and maintain an up-to-date Register of Refusals of Sale of Alcohol, indicating the date, time and reason for refusal which shall be made available for inspection by Local Authority Officers and the Police.
- The DPS or other responsible person shall check and sign the register once a week. Alternatively, an electronic point of sale refusals log shall be kept.

- A documented training programme shall be introduced for all staff in a position to sell, serve or deliver alcohol. A written record for each member of staff shall be kept of the content of such training and shall be made available for inspection at the request of Local Authority Officers and Police.
- The DPS or Premises Licence Holder shall conduct regular training reviews with all members of staff authorised to sell, serve or deliver alcohol in order to reinforce the training and to promote best practice. A written record for each member of staff shall be kept of the content of such reviews and shall be made available for inspection at the request of Local Authority Officers and Police.

Reasons

To protect the interests of residents and patrons and to ensure the promotion of the licensing objectives of:

- The prevention of crime and disorder.
- The prevention of public nuisance.
- The protection of children from harm.

Application

The application is for licensable activities to be undertaken at premises in Crewe trading as a Turkish restaurant with the name Swish Lounge. Oral representations in support of the application were received from Mr Kadir Anik on behalf of the Applicant. In summary these were:

- i) This is a new business in the area. A Turkish Restaurant.
- ii) A considerable amount of money has been spent on the Premises. It has already got good reviews online (Facebook, Trip Advisor). It has made 8 local jobs. If they had to close there would be 8 job losses. The Applicant has spent £300k to build up the business.
- iii) The Applicant wants to sell alcohol for his customers as he feels it would be beneficial to the business. He sells coffee and deserts now. The Premises was previously Square One which was a bar with a premises license and music.
- iv) The hours sought are comparable to surrounding businesses in Crewe. This is a busy street with an Indian restaurant next door and a pub on the corner which open until late at night.
- v) The Applicant has been in the area for 20 years and has been an active businessman.
- vi) The Applicant is aware of complaints about waste. He has collections of non-domestic waste. It is collected from a pathway around the back of the Premises leading to Pedley Street. Bottles are taken from there. They are kept in black bin bags and then put in blue bins for glass with the cans.
- vii) The Applicant is aware of complaints about noise. Square One had live bands. He will not be doing live bands. He just has basic speakers. Other restaurants and bars around use the same systems until the early hours. In the garden there is a glass extension with a retractable roof. This has already been approved by Planning. The music in the glass house is background and not for dancing. The Applicant no longer wants a licence for dancing.
- viii) This is not a bar or nightclub. There are child areas in the restaurant. This is not a membership club. It is a shisha lounge and Turkish restaurant.
- ix) The Applicant is happy to work with Responsible Authorities and neighbours but if the license is not granted the business will close. It is noted that Environmental Health did not find any issues when they visited.

Representations

There were relevant representations from two of the statutory consultees to the application. These were from the Environmental Health Department of Cheshire East Council as the Responsible Authority and Cheshire Police. These related to the prevention of public nuisance caused by noise, prevention of crime and disorder at the Premises and to protect children from harm. In return for agreeing to withdraw the representation the Applicant agreed to the Additional Conditions being imposed.

There were no other relevant representations from the statutory consultees to the application.

There were two relevant representations objecting to the application which between them engaged the licensing objective of prevention of public nuisance. Oral submissions were heard from Mr Barrie Davies and Mr Denis Brogan. In summary these were:

- i) Barrie Davies has owned the Waverley Hotel for 35 years and this the first time he has complained.
- ii) When the Premises was Square One, the operation was from the front of the building on Mill Street. Now there is a glass conservatory on the rear it creates a lot of noise. Music has been played loudly until 5am.
- iii) The impact of Swish Lounge has had a big effect on the hotel. People in the hotel are unable to sleep and have left complaints.
- iv) The noise from the large extractors is considerable. Would like the Council to look at these.
- v) The music and shouting is disturbing people. The glass conservatory has no sound proofing and is a big problem.
- vi) The extractors are odorous and the smoking from the Premises make alarms go off in the hotel when doors and windows are open.
- vii) Do not know why the venue continues beyond 11pm. Concerned if the license is given the Applicant will not adhere to it.

The Sub Committee also took guidance from Environmental Health Officers present about the Premises. They advised:

- i) They looked at noise nuisance complaints but do not consider it a statutory nuisance.
- ii) They have asked for conditions to reduce impacts. These conditions are for the Premises to manage everyday operations.
- iii) There is current planning application for the two chimney extraction units but this hasn't been approved yet. The glass conservatory has been approved though.

Determination

In consideration of the application, the Sub-Committee took into account:

- The oral and written representations made by all parties.
- The Application and Operating Schedule attached to this Notice
- The four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm) and the steps appropriate to promote them.
- The Secretary of State's Guidance under the Licensing Act 2003 (April 2018).
- Cheshire East Borough Council's Statement of Licensing Policy.

The Sub Committee is mindful that in the absence of relevant representations the default position for the Licensing Authority is that it must grant the licence in accordance with the application.

Where an application comes before the Sub Committee because of relevant representations, having regard to those representations the Sub Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- a) Grant the licence subject to conditions.
- b) Exclude from the licence any of the licensable activities to which the application relates.
- c) Refuse to specify a person as the premises supervisor.
- d) Reject the application.

The Sub Committee determined the application should be granted with Additional Conditions. In coming to this decision, the Sub Committee considered whether the licensing objectives would not be promoted. These are:

The prevention of crime and disorder

The Cheshire East Statement of Licensing Policy 2019 to 2024 requires the Licensing Authority to consider whether the premises to be licensed makes or will make a detrimental contribution to levels of crime and disorder and whether the Applicants Operating Schedule is based on an adequate risk assessment of the likelihood of crime and disorder occurring as a result of the application.

Representations had been made by Cheshire Police on what steps it thought appropriate for the promotion of this licensing objective. These had been accepted by the Applicant. These went considerably further than the Applicant's Operating Schedule. No other representations about crime and disorder at the Premises had been made. Comment had been made by the Licensing Authority about infringement of Temporary Event Notices, but no action was taken, and no criminal activity found. As a result little weight has been attached to this.

The Sub Committee is satisfied that the adoption of the conditions requested by the Police have sufficient safeguards to prevent crime and disorder arising from licensable activities at the Premises. It reminds the Applicant that the Police, Local Authority and residents have the ability to seek a review of the Premises Licence in the event this objective is being undermined.

Public safety

The Cheshire East Statement of Licensing Policy 2019 to 2024 requires the Licensing Authority to have regard the physical safety of customers using the premises to be licensed. It is not concerned with public health.

A representation had been made about the safety of the public using the Premises. A locked fire escape. Whilst this is clearly serious the Sub Committee has nothing else to support this allegation such as a picture or report to the relevant authorities. It has not therefore placed much weight on its source and is satisfied that the conditions requested by the Police and adopted by the Applicant has sufficient safeguards to ensure public safety arising from licensable activities at the Premises.

The prevention of public nuisance

There was opposition to the application based on noise and general nuisance to the local residents.

The Cheshire East Statement of Licensing Policy 2019 to 2024 requires the Licensing Authority to consider the potential impact of the licensed premises on the surrounding locality and will consider, the type of licensed activity, the proposed hours of operation, the capacity of the premises, the character of the area and the proximity to local residents.

There had been relevant objections that:

- Now there is a glass conservatory on the rear of the Premises it creates a lot of noise. Music has been played loudly until 5am. It has no sound proofing and is a big problem.
- People in the adjoining hotel are unable to sleep and have left complaints.
- The noise and smell from the large extractors are considerable.
- The extractors and the smoking from the Premises make alarms go off in the hotel when its doors and windows are open.

The Premises is already in a developed area with established similar premises operating similar hours. The Sub Committee does not feel the Premises would be unsuitable for the area it is intending to operate in. An element of noise and odour is to be expected. The view of Environmental Health was therefore important for the Sub Committee in this regard.

They looked at noise nuisance complaints about the Premises. They felt these could be managed by the imposition of conditions to reduce impacts. These conditions are for the Premises to manage everyday operations. In short:

- Noise emanating from the Premises is not to be clearly audible at the boundary of the nearest residential property.
- Noise emanating from the Premises is not to be clearly audible at the boundary of noise sensitive properties.
- All external windows and doors at the Premises shall be closed whilst live and recorded music or anything of a similar description to live or recorded music or dance is taking place inside the Premises.
- Regular noise assessments shall be undertaken around the boundary of the Premises when live and recorded music or anything of a similar description to live or recorded music or dance is taking place inside the Premises and steps shall be taken to reduce the level of noise where it is likely to cause a disturbance to local residents.

The Applicant has agreed to these conditions on his licence. They are what Environmental Health feel is necessary to keep nuisance from his everyday operations to a minimum. The Sub Committee does not therefore feel a need to go behind these to be satisfied that this licensing objective would not be undermined by the licensing of the Premises.

The Sub Committee recognised odours can be a nuisance but is again mindful of the location of the Premises and that similar business are nearby. Environmental Health has made no comment on odour pollution or the noise of the extractors. The Applicant has a planning application for new and improved extractors in place of what is already there. The Sub Committee places weight on the fact that extractors are and have been operating from the Premises for some time and before the Applicant's business. Odours would not be new or unexpected.

The Sub Committee is again satisfied that the objective of prevention of public nuisance arising from licensable activities at the Premises would not be undermined. However, as before, the Applicant is reminded that the Police, Local Authority and residents has the ability to seek a review of the Premises Licence in the event this objective is not upheld in the future.

The protection of children from harm

The Cheshire East Statement of Licensing Policy 2019 to 2024 requires the Licensing Authority to consider whether there are effective measures to check the age of those young people who appear to be under 25, to ensure alcohol is not sold to those under 18 and those under 16 are accompanied in alcohol led premises. Whether the supply of alcohol for consumption on the premises is the exclusive or primary purpose.

It was noted that no objection had been forthcoming by Children's Services. Representations had been made by Cheshire Police on what steps it thought appropriate for the promotion of this licensing objective. These had been accepted by the Applicant. These went considerably further than the Applicant's Operating Schedule.

There was a Challenge 25 Policy and required acceptable means of identification. The primary purpose of the Premises is not to sell alcohol but to provide food. The Sub Committee is satisfied that the adoption of the conditions requested by the Police have sufficient safeguards to prevent harm to children arising from licensable activities at the Premise.

Conclusion

Overall, the Sub Committee felt the licensing objectives would not be undermined by the granting of a Premises Licence to the Applicant. It determined its application as follows:

Licensed Premises

31 Mill Street
Crewe
CW2 7AJ

The opening hours of the Premises:

Monday to Sunday: 11.00 – 23.00

Save for:

- From the end of permitted hours on Christmas Eve to 04.00 on Christmas Day.
- From the end of permitted hours on Christmas Day to 04.00 on Boxing Day.
- From the end of permitted hours on New Years Eve to 04.00 on New Years Day.

Sale and Supply of alcohol

Monday to Sunday: 11.00 – 22.45

Provision of Recorded Music

Monday to Sunday: 11.00 – 23.00

Indoors only.

Provision of anything of a similar description to live music, recorded music or performances of dance

Monday to Sunday: 11.00 – 23.00
Indoors only.

Dated: 7th March 2022

If you are aggrieved by this Decision of Cheshire East Council you may appeal to a magistrate's court within 21 days of being notified of this Decision.

You are advised to seek independent legal advice before doing so.