

OPEN

Licensing Sub-Committee

26th June 2024

**Application for the Variation of a
Premises Licence – CUBAR, High
Street, Sandbach, CW11 1AL**

**Report of: Peter Skates, Acting Executive Director – Place
Ward(s) Affected: Sandbach Town**

Purpose of Report

- 1 To allow Members of the Sub-Committee to determine a contested application to a variation of a premises licence application made under the Licensing Act 2003 for the following premises:

CUBAR, High Street, Sandbach, CW11 1AL

Executive Summary

- 2 The report provides details of a variation application for a Premises Licence, under section 34 of the Licensing Act 2003, sets out the relevant representations made, and outlines the evidence presented by the parties in relation to the application.

RECOMMENDATIONS

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.

Background

- 3 On 14th May 2024 an application was received by the Licensing Department to vary a premises licence in respect of a premises known as CUBAR, High Street, Sandbach, Cheshire CW1 1AL. The application was sent for consultation on the same day (14th May 2024). The last date for representations to be made was 11th June 2024. A copy of the application form and plan is attached as **Appendix 1** to this report.

- 4 Licensing records show that a Premises Licence currently exists in relation to CUBAR, 45 High Street, Sandbach. A copy of Premises Licence Number 1541 is attached to this report at **Appendix 2**
- 5 The operating schedule indicates that the relevant licensable activities that will be subject to change if this application is successful are the provision of live and recorded music.

The amended hours applied for are as follows:

Provision of Recorded Music (indoors and out)

Monday to Sunday 12.00 – 01.00

Christmas Eve and New Years Eve 12.00 – 02.00 hours

The applicant has stated the music will be played as background music via a Sonos 1 mini currently located on the rear of the building – ambience only.

- 6 A premises licence was originally granted for the premises on 18th July 2014 under the name The Folks Bar. The licence was transferred to Cubar Sandbach Limited on 6th September 2019. Cubar Sandbach Limited went into liquidation on 12th October 2023 and due to administration error, the premises licence was not transferred to the new company name of Cubar Cheshire. Consequently, the premises licence lapsed, a new licence was applied for and was granted on 26th December 2023.
- 7 A map of the area in which the premises is located is attached to this report at **Appendix 3**.

Consultation and Engagement

- 8 Licensing records show that the Public Notice that is required to be displayed at or near the proposed premises in accordance with the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005. The notice was inspected by a Licensing Officer on 21st May 2024 and confirmed to be present and met the requirements under the regulations. The Public Notice has also been duly advertised in the Sandbach Chronicle on 16th May 2024.
- 9 Responsible Authorities:

Environmental Health have agreed conditions with the applicant. A copy of the agreed conditions are attached to this report Appendix 4.

Other Persons:

- 10 The Licensing Authority has received three representations from members of the public. A copy of the representations are attached to this report at **Appendix 5**.

Reasons for Recommendations

- 11 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.
- 12 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:
- The prevention of crime and disorder
 - Public Safety
 - The prevention of public nuisance
 - The protection of children from harm

Other Options Considered

- 13 No other options have been considered because the process for determining contested applications is set by legislation.

Implications and Comments

Monitoring Officer/Legal

- 14 The Sub Committee must determine this application in accordance with section 35 of the Licensing Act 2003. To do so otherwise would render its determination unlawful and invalid.
- 15 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.
- 16 Section 35 (4) provides that the authority may:
- Modify the conditions of the licence
 - Reject the whole or part of the application

- 17 Members are reminded that should any conditions be added or amended, they should be practical, enforceable and appropriate to promote the Licensing Objectives.
- 18 Members may not extend the period for which the licence has effect.
- 19 Members may not vary substantially the premises to which the licence relates.
- 20 Members are reminded that they are to determine the variation application before them and cannot change parts of the licence that are not part of the application.
- 21 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 reoffending.
- 22 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.
- 23 Members must give reasons for their determination and notice of it must be communicated to the parties to this application. If Members depart from the Statutory Guidance or the Council's Statement of Licensing Policy then their decision notice must set out the reasons for doing so.
- 24 Finally, Members are also reminded that in determining the application, consideration also needs to be given to:
 - The rules of natural justice
 - The provisions of the Human Rights Act 1998

Section 151 Officer/Finance

- 25 There are no financial implications.

Policy

- 26 The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003.
- 27 The Licensing Authority must also have due regard to the guidance issued under section 182 of the Licensing Act 2003.

- 28 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.

Equality, Diversity and Inclusion

- 29 There are no equality implications.

Human Resources

- 30 There are no human resources implications.

Risk Management

- 31 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.

Rural Communities

- 32 There are no implications for rural communities.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 33 There are no implications for children and young people.

Public Health

- 34 There are no direct implications for public health.

Climate Change

- 35 There are no implications for climate change.

Access to Information	
Contact Officer:	Tracey Billington – Licensing Enforcement Officer Licensing@Cheshireeast.gov.uk 0300 123 5015
Appendices:	Appendix 1a, 1b, 1c – Application & Plan Appendix 2 – Copy of the Current Premises Licence Appendix 3 – Map of the area

	<p>Appendix 4 – Representations from Responsible Authorities</p> <p>Appendix 5 – Representations from Members of the Public</p>
Background Papers:	<p><u>Revised Guidance issued under section 182 of the Licensing Act 2003 (publishing.service.gov.uk)</u></p> <p><u>Council's Statement of Licensing Policy published under section 5 of the Licensing Act 2003</u></p> <p><u>Licensing Act 2003</u></p> <p><u>The Licensing Act 2003 (Hearings) Regulations 2005</u></p>