

Licensing Act Sub-Committee

Agenda

Date: Monday, 2nd December, 2013
Time: 9.30 am
Venue: Committee Suite 1 & 2, Westfields, Middlewich Road,
Sandbach CW11 1HZ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Appointment of Chairman**

To appoint a Chairman for the meeting.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda and for Members to declare if they have pre-determined any item on the agenda.

3. **Notice of Temporary Events: Hotspot, 11 High Street, Sandbach, CW11 1AH**
(Pages 5 - 14)

To consider temporary event notices which have been served in respect of Hotspot, 11 High Street, Sandbach, Cheshire CW11 1AH and the objection notices which have been received in respect of these temporary event notices.

THERE ARE NO PART 2 ITEMS

For requests for further information

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CHESHIRE EAST COUNCIL

Procedure for Hearings – Licensing Act 2003**The Licensing Committee**

The full Licensing Committee consists of fifteen elected Members of the Council. From this full Committee will be drawn sub-committees of three members to deal with licensing functions under the Licensing Act 2003. The Chairman and Vice Chairman of the Licensing Committee shall have the discretion to refer a matter up to a hearing of the full Licensing Committee.

Officers at Hearings

- § **The Committee Officer** introduces all parties and records the proceedings
- § **The Legal Adviser** provides independent advice to the Members on legal matters and procedure.
- § **The Licensing Officer** will introduce the matter and outline the application; the officer will also answer any questions Members may have.

PROCEDURE

NOTE: If the Sub-Committee has not already elected a Chairman, that will be the first item of business.

1	Chairman	The Chairman will: (i) call the matter to be considered (ii) call for any declarations of interest (iii) ask all parties to introduce themselves (iv) summarise the procedure to be followed at the hearing (v) will consider any request made by a party for another person to appear at the hearing (v) will advise the parties of any maximum period of time in which it has to present its case (if a maximum is imposed this shall be equal for all parties)
2	Licensing Officer	Will introduce and summarise the application, highlighting areas of contention or dispute.
3	Committee Members	May ask questions of the Licensing Officer
4	Applicant	Will present his/her case, calling witnesses, as appropriate. <i>(If necessary, applicant will produce any notices required by law. Legal Adviser will draw attention to this if required.)</i>

5	Responsible Authorities (who have made representations)	Each in turn may ask <u>questions</u> of the applicant, by way of clarification.
6	Other Persons (who have made representations)	To be invited to ask <u>questions</u> of the applicant, by way of clarification. <i>It is normal practice for a spokesperson only to speak on behalf of a group of residents.</i>
7	Committee Members	Each in turn may ask <u>questions</u> of the applicant.
8	Applicant	May make a <u>statement</u> or ask his witnesses to clarify any matters which he feels are unclear, or may have been misunderstood.
9	Responsible Authorities	Will make their representations.
10	Applicant	Or his representative or witnesses to ask <u>questions</u> of Responsible Authorities represented at the meeting, by way of clarification.
11	Other Persons (who have made representations)	May ask <u>questions</u> of the Responsible Authorities represented at the meeting, by way of clarification. (Note: This is not the point at which they should be stating their objections.)
12	Committee Members	May ask <u>questions</u> of the Responsible Authorities represented at the meeting
13	Other Persons (who have made representations)	Those who have objected to the application will be invited <u>to make observations on the application</u> and present the bases of their objections.
15	Applicant	Or his representative or witnesses may ask <u>questions</u> of the other persons, by way of clarification.
16	Committee Members	May ask <u>questions</u> of the other persons.
17	Chairman	To invite both Responsible Authorities and Other Persons to make their closing addresses.
18	Applicant	Or his representative will <u>briefly summarise the application</u> and comment on the observations and any suggested

		conditions.
19	Committee	<u>Will retire</u> to consider the application. The Committee may request the Legal Advisor to advise on legal issues.
20	Committee	<p>Will return to <u>give its decision</u>, with reasons, which will be announced by the Chairman and subsequently confirmed in writing to the applicant and to all the parties that made representations.</p> <p>In cases where a decision cannot be given at the end of the hearing, parties will be advised of the decision within five working days.</p>

Notes

1. The hearing shall normally be held in public. There may be occasions on which the Committee find it necessary to exclude members of the press and public; any such decision will be taken on the basis that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public.
2. The Chairman may require any person behaving in a disruptive manner to leave the hearing and may (a) refuse to permit that person to return, or (b) permit him/her to return only on such conditions as the authority may specify, but any such person may submit in writing any information which they would have been entitled to provide orally if they had not been required to leave.
3. Prior to the hearing each party shall have given notification and served documentation (eg statements of witnesses or reports of experts) as required. Late representations and evidence will only be considered with the agreement of all parties.
4. Anyone entitled to be heard may be represented by any person, whether or not that person is legally qualified.
5. Hearsay will be permitted but the Sub-Committee will be reminded to give it appropriate weight.
6. Due note shall be taken of the provisions of the Hearings Regulations 2005.
7. The Chair may, in the interests of expediency or convenience of the parties, vary the procedure from time to time, provided notice is given to the parties and the rules of natural justice are observed.

Summary of Procedure

1. Chairman appointed (if this has not been done previously).
2. Chairman to call for declarations of interest and request that all parties introduce themselves.
3. Chairman summarises the procedure for the hearing
4. The Licensing Officer summarises the application
5. Applicant to present his/her case.
6. Applicant to be questioned by all parties (to clarify points only) following which, he/she can clarify any other matters which he/she feels may have been misunderstood when the application was presented.
7. Applicant to be questioned by the Committee.
8. Responsible Authorities to make their representations following which they can be questioned by all parties by way of clarification.
9. Other Persons will be invited to present the bases of their objections, following which they can be questioned by all parties by way of clarification.
10. The applicant will be invited to sum up his/her case
11. Committee/Sub-Committee withdraws to make its decision
12. Committee/Sub-Committee returns to announce its decision to all present.

CHESHIRE EAST COUNCIL

LICENSING ACT SUB-COMMITTEE

Date of meeting: Monday 2nd December 2013 at 09.30am
Venue: Westfields, Middlewich Road, Sandbach, CW11 1HZ
Report of: Mrs N Cadman, Licensing Officer
Title: Notice of Temporary Events
Hotspot, 11 High Street, Sandbach, CW11 1AH

1.0 Report Summary

- 1.1 The report provides details of Temporary Event Notices submitted by Mr A Mirza, which have been served in respect of:

Hotspot
11 High Street
Sandbach
Cheshire
CW11 1AH

- 1.2 The notices request authorisation for the following licensable activities to take place:

Event start date 19th December 2013, Event end date 25th December 2013.

The provision of Late Night Refreshment

Event start date 27th December 2013, Event end date 2nd January 2014.

The provision of Late Night Refreshment

2.0 Recommendations

- 2.1 The Licensing Act Sub-Committee is requested to consider the Temporary Event Notices served, the objections received and determine whether to give Counter Notices under section 105 of the Licensing Act 2003. A Counter Notice will render any licensable activities provided unlawful.

- 2.2 Members are also reminded that regard must be given to:

- § The rules of natural justice
- § The provisions of the Human Rights Act 1998

3.0 Reasons for Recommendations

- 3.1 The Licensing Act Sub-Committee has the delegated authority to consider this matter in accordance with the provision of the Licensing Act 2003 and the Council's Constitution.

4.0 Wards Affected

- 4.1 Sandbach Town

5.0 Local Ward Members

- 5.1 Cllr Barry Edward Moran

6.0 Policy Implications

- 6.1 The Council has adopted a Statement of Licensing Policy under the 2003 Act relating to its functions as a Licensing Authority.
- 6.2 The Licensing Authority must also have due regard to the guidance issued under section 182 of the Licensing Act 2003.
- 6.3 Members of the Licensing Sub-Committee are reminded that they should provide reason(s) for any decision taken, or where they might consider departing the Guidance or Policy.

7.0 Financial Implications (Authorised by the Director of Finance & Business Services)

- 7.1 None.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Section 104 of the Licensing Act 2003 provides that where a 'relevant person' (i.e. the Chief Officer of Police or the Environmental Health Service) are satisfied that allowing a premises to be used in accordance with a Temporary Event Notice would undermine a licensing objective, that 'relevant person' is required to give a notice ("an objection notice") stating the reasons for being so satisfied.
- 8.2 Where a licensing authority receives an objection notice it is required, by section 105(2) of the Licensing Act 2003 to:
 - a) hold a hearing to consider the objection notice, unless the premises user, the relevant person who gave the notice and the licensing authority agree that a hearing is unnecessary; and
 - b) having regard to the objection notice, give the premises user a counter notice if it considers it appropriate for the promotion of a licensing objective to do so.
- 8.3 In circumstances where an objection notice has been given (and not withdrawn) and the licensing authority has determined not to give a counter notice under section 105, the authority may impose one or more conditions on the standard Temporary Event Notice if (a) the authority considers it appropriate for the

promotion of the licensing objectives to do so; (b) if the conditions are already imposed on the premises licence that has effect in respect of the premises; and (c) the conditions would not be inconsistent with the carrying out of the licensable activities under the Temporary Event Notice.

9.0 Risk Management

- 9.1 The Licensing Sub-Committee will hear representations made on behalf of both the premises user and the 'relevant person' who has submitted the objection notice and will make a decision on the basis of the evidence presented to it. The Licensing Act 2003 provides a right of appeal to the Magistrates' Court against the decision of the Licensing Authority.

10.0 Background and Options

- 10.1 The premises which are subject of the Temporary Event Notices, is a hot food takeaway. A location plan is attached as **Appendix 1**. There is a current Premises Licence in force at the premises which authorises the provision of Late Night Refreshment, a copy of this licence summary and conditions is attached as **Appendix 2**.

- 10.2 The Temporary Event Notices served seeks to authorise:

Event start date 19th December 2013, Event end date 25th December 2013.

The provision of Late Night Refreshment

19th December – 01.00am to 02.00am
20th December – 01.00am to 03.00am
21st December – 02.30am to 03.30am
22nd December – 02.30am to 03.30am
23rd December – 01.00am to 02.30am
24th December – 01.00am to 03.00am
25th December – 01.00am to 03.30am

Event start date 27th December 2013, Event end date 2nd January 2014.

The provision of Late Night Refreshment

27th December – 01.00am to 03.00am
28th December – 02.30am to 03.30am
29th December – 02.30am to 03.30am
30th December – 01.00am to 03.30am
31st December – 01.00am to 02.30am
1st January – 01.00am to 04.00am
2nd January – 01.00am to 02.00am

- 10.3 Objection from 'relevant person':

- 10.3.1 The Police have submitted objection notices in respect of these Temporary Event Notices. A copy of the objection notices is attached as **Appendix 3**.

10.3.2. The Environmental Health Authority has not submitted an objection notice in respect of the Temporary Event Notices.

11.0 Access to Information.

There are no background papers associated with this report.

Name: Mrs N Cadman

Designation: Licensing Officer

TEL: 01270 685957

Email: nikki.cadman@cheshireeast.gov.uk

Appendix 1 - Location Plan.

Appendix 2 – Copy of Premises Licence Summary and Conditions.

Appendix 3 – Objection Notices submitted by the Police

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APPENDIX - 1

(c) Crown copyright and database rights 2013. Ordnance Survey 100049045.
100049046.

APPENDIX - 1

Student's Choice

The Crooks

20 Meters

End of page

10

112

Premises Licence Summary

Premises Licence Number:

LAPRE/0249/10

Premises Details

Postal address of Premises or, if none, ordnance survey map reference or description:

Hotspot

11 High Street
Sandbach
Cheshire East

Post Town: Sandbach

Post Code: CW11 1AH

Telephone Number: 01270 753743

Where the Licence is time limited, the dates:

Not applicable

Licensable activities authorised by the Licence:

Late Night Refreshment
Recorded Music

The time the Licence authorises the carrying out of licensable activities:

Late Night Refreshment/Recorded Music

Sunday to Thursday	11:00 – 01:00
Friday and Saturday	11:00 – 02:30

The opening hours of the Premises:

Monday	11:00 - 01:00
Tuesday	11:00 - 01:00
Wednesday	11:00 - 01:00
Thursday	11:00 - 01:00
Friday	11:00 - 02:30
Saturday	11:00 - 02:30
Sunday	11:00 - 01:00

Where the Licence authorises supplies of alcohol, whether these are on and/or off supplies:

Name, (registered) address of holder of Premises Licence:

Mr Atif Arslan Mirza
c/o 11 High Street
Sandbach
Cheshire
CW11 1AH

Registered number of holder, for example company number, charity number (where applicable):

Name of designated Premises Supervisor where the Premises Licence authorises for the supply of alcohol:

State whether access to the Premises by children is restricted or prohibited:

...Licence Granted: 5th July 2011.....
LAPRE/0249/10

Annex 1 - Mandatory Conditions

APPENDIX - 2

Not applicable

Annex 2 - Conditions consistent with the Operating Schedule

- 1 A CCTV system will be installed at the premises to the satisfaction of the Police Licensing Officer. It will record continuously during all hours that the premises are open to the public and unedited images will be securely stored for a period of at least 28 days. Copies from the CCTV system will be made freely available upon request to a constable or an employee of the Police Authority or Local Authority.
- 2 There shall be placed at all exits from the premises in a place where they can be seen and easily read by the public notices requiring customers to leave the premises and the area quietly.
- 3 Where the premises provide food for consumption off the premises, the public area immediately surrounding the premises shall be cleared of waste food, food containers, wrapping etc regularly during the stated operating hours and at the end of trading on each day. Such refuse shall be placed in a container designed for the storage and disposal of refuse and waste foods which shall be constructed, maintained and located so that access to it by vermin and unauthorised persons is prevented and arrangements shall be made for the regular lawful disposal of their contents.
- 4 No nuisance shall be caused by noise coming from the premises.

Annex 3 - Conditions attached after a hearing by the Licensing Authority

Not applicable.

Annex 4 - Plans

The Plan 0249/10 is attached to the Licence.

LICENSING ACT 2003

Cheshire Constabulary TEN Consultation Response

Date Received: 25th November 2013

Name of Applicant: Mr Atif Mirza

Address to which application relates: Hotspot
11 High Street
Sandbach
CW11 1AH

<p>Date of event(s):</p> <p><input type="checkbox"/> Approve</p> <p><input checked="" type="checkbox"/> Object</p>	Thursday 19/12/13	01:00 – 02:00 hours
	Friday 20/12/13	01:00 – 03:00 hours
	Saturday 21/12/13	02:30 – 03:30 hours
	Sunday 22/12/13	02:30 – 03:30 hours
	Monday 23/12/13	01:00 – 02:30 hours
	Tuesday 24/12/13	01:00 – 03:00 hours
	Wednesday 25/12/13	01:00 – 03:30 hours

Observations

I have considered the above notice and wish to object under the licensing objectives of:

The prevention of public nuisance and crime and disorder

The premises are already licensed to provide Late Night Refreshment as late as 02:30 at weekends and as a result already provide an incentive and encouragement for people at the end of the night to resort to the area and remain in the vicinity instead of going home. As a result they have been a focus for anti-social behaviour and disorder both at the premises and in its immediate environs. Licensing the premises to operate even further into the small hours will simply exacerbate the current situation and in doing so undermine both the crime and disorder and public nuisance licensing objectives.

Additionally the police have already experienced these premises operating later than their licensed hours and the problems this can create to the promotion of the licensing objectives.

Consequently the police object to the Temporary Event Notice to prevent the undermining of the licensing objectives of crime and disorder and public nuisance.

SIGNED: David Smethurst

DATED: 25th November 2013

LICENSING ACT 2003 APPENDIX - 3
Cheshire Constabulary TEN Consultation Response

Date Received: 25th November 2013

Name of Applicant: Mr Atif Mirza

Address to which application relates:

Hotspot
 11 High Street
 Sandbach
 CW11 1AH

Date of event(s):

Thursday 27/12/13	01:00 – 03:00 hours
Saturday 28/12/13	02:30 – 03:30 hours
Sunday 29/12/13	02:30 – 03:30 hours
Monday 30/12/13	01:00 – 03:30 hours
Tuesday 31/12/13	01:00 – 02:30 hours
Wednesday 01/01/14	01:00 – 04:00 hours
Thursday 02/01/14	01:00 – 02:00 hours

☐ Approve

☒ Object

Observations

I have considered the above notice and wish to object under the licensing objectives of:

The prevention of public nuisance and crime and disorder

The premises are already licensed to provide Late Night Refreshment as late as 02:30 at weekends and as a result already provide an incentive and encouragement for people at the end of the night to resort to the area and remain in the vicinity instead of going home. As a result they have been a focus for anti-social behaviour and disorder both at the premises and in its immediate environs. Licensing the premises to operate even further into the small hours will simply exacerbate the current situation and in doing so undermine both the crime and disorder and public nuisance licensing objectives.

Additionally the police have already experienced these premises operating later than their licensed hours and the problems this can create to the promotion of the licensing objectives.

Consequently the police object to the Temporary Event Notice to prevent the undermining of the licensing objectives of crime and disorder and public nuisance.

SIGNED: David Smethurst

DATED: 25th November 2013