

Licensing Act Sub-Committee

Agenda

Date: Wednesday, 9th September, 2020

Time: 2.00 pm

Venue: Virtual

How to Watch the Meeting

For anyone wishing to view the meeting live please click in the link below:

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Or dial in via telephone on 141 020 3321 5200 and enter Conference ID 913 919 939# when prompted.

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 in the report.

It should be noted that Part 1 items of Cheshire East Council decision-making meetings are audio recorded and the recordings are uploaded to the Council's website.

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. **Application to review a Premises Licence at Thirsty Beak Café Bar, Unit 5c, Dukes Court, Mill Street, Macclesfield, Cheshire, SK11 6NN (Pages 9 - 40)**

To consider the above application.

For requests for further information

Contact: Helen Davies

Tel: 01270 685705

E-Mail: helen.davies@cheshireeast.gov.uk

THERE ARE NO PART 2 ITEMS

Membership: Councillors H Faddes, K Flavell and M Goldsmith

CHESHIRE EAST COUNCIL

Procedure for Hearings – Licensing Act 2003 COVID-19

This procedure has been drawn up to take account of the restrictions placed on the Country by the Government in its response to the COVID-19 pandemic and the Council's move towards the holding of virtual meetings.

As a Licensing Authority we are conscious that all Hearings of this nature must be run in accordance with the rules of natural justice and that any modifications to the format of the hearing should not undermine the requirements to hold a fair hearing.

It is the Council's intention to run the Hearing as close a possible to our procedure for Hearings set out in our Statement of Licensing Policy. However, it will be necessary to make a number of specific alterations.

The Council does not intend to hold any Hearings just on the pre Hearing papers (eg applications and written representations). The Council considers that a Licensing determination based solely on written material and without the opportunity for amplification, clarification, and questions does not best serve the decision-making process.

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.

Platform

The Council will use Microsoft Teams for all Hearings. This platform can be accessed on a landline, mobile, laptop or tablet. The Democratic Services Officers will ensure that the meeting is set up within the Microsoft Teams platform. All parties to the Hearing will received the Notice of Hearing required by the regulations and an email invitation with specific joining instructions for Microsoft Teams.

Web Casting

All Council meetings are web cast through the Council's website. This will continue to be the case during any lockdown period and will allow members of the public to listen to proceedings from their own home.

Connectivity Test

The Council will require Members, officers, and all parties to the Hearing to be available for a connectivity test 30 minutes before the start of the Hearing. This is to ensure that any issues can be identified and overcome before the start of the meeting. Notes on how this test will be conducted will be sent directly to parties.

Technical Issues

If during the course of the meeting, the Chairman determines any technical issues (for example, parties dropping out of the meeting or parties being unable to hear or follow proceedings etc) are compromising the integrity of the Hearing, the Chairman will have discretion to adjourn the matter to later date. The test the Chairman will use when considering any adjournment is what is best in the public interest (including the right of all parties to have a fair hearing). Any adjournment will either be to a date when technical issues can be overcome or to a date when a full hearing with all parties physically present can be held.

Etiquette

In order to maximise effectiveness of the Hearing all parties should:

- Identify themselves at the start of the Hearing when asked to do so by the Chairman
- Put their webcam and microphone on mute all times other than when addressing the Committee
- Indicate that you want to speak by using the chat function
- Only address the Committee when called to do so by the Chairman

Committee Reports

The Committee report and all relevant information will be posted on the Council's website at least 7 days prior to the Hearing. A link to the documents will be provided with the Notice of Hearing. The Committee report pack will be paginated and all parties should refer to this pack rather than their own bundles.

Late Evidence

Parties should submit any evidence for consideration of the Committee prior to the drawing up of the Committee agenda packs. This will mean that all information in containing in one paginated bundle that can be referred to by the parties (referencing pages numbers).

Evidence submitted on the day of the hearing can only be included when all parties to the hearing agree. It will ultimately be for the members of the Committee to decide if late evidence is accepted.

Decisions

In accordance with Hearings Regulations the Committee will make a determination at the end of the Hearing and the decision will be given within 5 working days. Some decisions are required to be given at the end of the Hearing, in this case the public meeting will resume once Members have deliberated and formed their decision.

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 and will draw up the decision notice.
- **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)	The local residents who are objecting 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 Local Residents, by way of clarification.
16	Committee Members	May ask <u>questions</u> of the Local Residents.
17	Chairman	To invite both Responsible Authorities and Local Residents 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	Close of Public Meeting	When the Chairman determines that all relevant information has been heard and no further matters are to be discussed, the public meeting will end. All parties to the hearing (including

		Licensing Officers and Responsible Authorities) will be excluded from the platform.
19	Committee	<p><u>Will retire</u> to consider the application. They will be accompanied by their Legal Advisor and the Democratic Services Officer. This means that the Members of the Committee can determine the matter in private session. And can take the opportunity to seek legal advice.</p> <p>Members will give their decision with 5 working days by the issuing of a decision notice.</p>

Notes

1. The Committee can exclude members of the press and public from participation in a Hearing; 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 be excluded from 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 Chairman 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 will provide its decision in writing



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Licensing Act Sub Committee

Date of Meeting: [Click to Enter Date of Destination Meeting.](#)

Report Title: Application to review a Premises Licence at Thirsty Beak Café Bar, Unit 5c, Dukes Court, Mill Street, Macclesfield, Cheshire, SK11 6NN

Senior Officer: Frank Jordan - Executive Director Places

1. Report Summary

1.1. The report provides details of an application for a review to the Premises Licence, under section 51 of the Licensing Act 2003 and outlines the evidence presented by the parties in relation to the review.

2. Recommendations

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

Thirsty Beak Café Bar
Unit 5c Dukes Court
Mill Street
Macclesfield
SK11 6NN

2.2. The Licensing Act Sub-Committee is requested to consider the review 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, and provide the key reasons why the recommendation/s has been made. Link your reasons into appropriate council policies and corporate objectives.

4. Other Options Considered

4.1. Not applicable

5. Background

5.1. The application by Cheshire Police was received by the Licensing Authority and sent out for consultation on the 14th February 2020. The application is to review a Premises Licence under section 51 of the Licensing Act 2003.

5.2. The grounds for the review application are:

- Prevention of Crime and Disorder
- Public safety

The full details of the grounds for the review are set out in the application at **Appendix 1**.

5.3. A copy of the Premises Licence setting out the premises licence holder, designated premises supervisor and conditions etc. is appended to this report at **Appendix 2**.

5.4. Responsible Authorities:

5.4.1. The Council's Environmental Protection team have not submitted a representation.

5.5. Other Persons:

5.5.1. The Council has received two representations from the public, which are set out at **Appendix 3**.

5.6. Under the Licensing Act 2003 (Hearings) Regulations 2005, a hearing to determine the application for review under section 52(2) of the Licensing Act 2003 must be commenced within twenty working days after the end of the period during which representation may be made.

5.7. In this case the statutory period for commencing the hearing expired on 13th April 2020. However, in accordance with Regulation 11 of the The Licensing Act (Hearings) Regulations 2003, Cheshire East Council took the decision to extend the time within which a hearing must be held. This decision was taken as a result of the COVID-19 pandemic and its affect on public health. In taking this decision, Cheshire East Council had regard to the guidance issued by Central Government and given the severity of the situation Cheshire East Council, as the Licensing Authority, considered that it was in the public interest to hold a hearing at a later date. A notice of hearing was issued in accordance with regulation 11(2) of the Licensing Act (Hearings) Regulation 2005.

5.8. A notice of hearing was sent to all parties on 24th March 2020.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. Subsection 52(2) of the Licensing Act 2003 prescribes that before determining an application for a review recieved in accordance with section 51, the Licensing Authority must hold a hearing to consider the review application and any relevent representations

6.1.2. Subsection 52(3) states that the authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers, appropriate for the promotion of the Licensing Objectives.

The steps set out within sub-section (4) are:

- i. Modify the conditions of the licence. For this purpose, the conditions of the licence are modified if any of them are altered or omitted, or any new condition is added.
- ii. Exclude a licensable activity from the scope of the licence;
- iii. Remove the designated premises supervisor;
- iv. Suspend the licence for a period not exceeding three months;
- v. Revoke the licence.

6.1.3. Members are reminded that should any conditions be added, they should be practical, enforceable and appropriate to promote the Licensing Objectives.

6.1.4. By virtue of section 52(11) of the Licensing Act 2003, any decision of the Sub-Committee to take one or more of the steps set out above does not have effect:

- (a) Until the end of the period given for appealing against the decision or
- (b) If the decision is appealed against, until the appeal is disposed of.

6.1.5 Members are also reminded of the statutory obligation placed on the Local Authority under section 17 of the Crime and Disorder Act 1998 to exercise its various functions, doing all that it can to prevent Crime and disorder, and Anti-social Behaviour, behaviour adversely affecting the environment as well the misuse of drugs, alcohol and re-offending in the Local Environment.

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

6.7. 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.

6.8. Rural Communities Implications

6.8.1. There are no direct implications for rural communities.

6.9. Implications for Children & Young People/Cared for Children

6.9.1. There are no direct implications for children and young people.

6.10. Public Health Implications

6.10.1 There are no direct implications for public health.

6.11. Climate Change Implications

6.11.1. There are no direct implications for Climate Change.

7. Ward Members Affected

7.1. Macclesfield Central – Councillor Liz Braithwaite.

7.2. Macclesfield Central – Councillor Ashley Farrall.

8. Consultation & Engagement

8.1. In accordance with The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 the Council is required to advertise

the application, including the placing of notices at or near the premises subject of the review for not less than 28 days.

8.2. The reason for the placing of notices is to make members of the public aware of the Review. The notices must also state the grounds for the review in accordance with Regulation 39. The grounds for the review were summarised on the notice with the information taken from the review application form. Notices were displayed in accordance with this requirement. However, on the 9th March 2020, we had received notification that the notices had been removed entirely. This necessitated officers to redisplaying them.

8.3. Due to the removal of the notices during the consultation period the requirement to advertise the notices at the premises for no less than 28 consecutive days at the premises has not been fully complied with.

8.4. In addition to the notices at the premises, notices were also displayed at the Council's Westfields Offices and on the Council's website for the duration of the consultation period. Notices were displayed on blue A4 paper with size 16 font and followed the requirements in Regulation 39 on its content.

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 Administration Officer

Email: nathan.murphy@cheshireeast.gov.uk

Appendix 1 – Application

Appendix 2 – Premises Licence

Appendix 3 – Representations submitted from other persons

Appendix 4 – Plan of the Premises

[Insert name and address of relevant licensing authority and its reference number (optional)]

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I [REDACTED]

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Thirsty Beak Café Bar Dukes Court 5C 91-95 Mill Street Macclesfield SK11 6NN	
Post town Macclesfield	Post code (if known) SK11 6NN

Name of premises licence holder or club holding club premises certificate (if known) Tracey WARNE 34 Craig Road Macclesfield SK11 7XN
--

Number of premises licence or club premises certificate (if known) PREM1028

Part 2 - Applicant details

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Cheshire Police Macclesfield Police Station Brunswick Street Macclesfield Cheshire Constabulary SK10 1HQ
Telephone number (if any) 101
E-mail address (optional) 

This application to review relates to the following licensing objective(s)

- | | |
|---|-------------------------------------|
| | Please tick one or more boxes ✓ |
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 2)

The grounds for review are that the premises have been found by Police to be consistently in breach of their licence conditions.

The premises have recently been subjected to an action plan with clear conditions which needed to be adhered to in order to help them become compliant with their licence conditions. A recent Police licencing visit has found the premises in breach of the conditions set out in the action plan.

The nature and style of the operation at the premises is undermining the licencing objectives particularly:

- Prevention of Crime and Disorder
- Public Safety

Please provide as much information as possible to support the application (please read guidance note 3)

The Thirsty Beak first came to the attention of the licencing officer when footage of a serious assault on Mill Street on 18/08/19 at around 3am was sent to Cheshire East Council. A search of police systems did not find any incident for that date being reported to the police an incident has retrospectively been recorded. Police licencing Officer [REDACTED] and [REDACTED] (Cheshire East Licencing Enforcement officer) started to make enquiries to try to obtain CCTV from various premises on Mill Street who may have CCTV that covered the incident. All conversations pointed to either Thirsty Beak or Capri lounge, as they were the only premises who were open at that time of the morning.

On 23/08/19 [REDACTED] and [REDACTED] visited the premises and spoke to staff at Thirsty Beak and the [REDACTED] of the Designated Premises Supervisor (DPS). [REDACTED] contacted [REDACTED] back after the visit by phone and [REDACTED] verbally requested CCTV from [REDACTED] and she sent over a written request on 30/08/19

The premises should retain CCTV for 28 days therefore the CCTV should have been available until 15/09/19. [REDACTED] was unable to download the CCTV and was reliant on an employee [REDACTED] to download this for her.

The premises licence condition states:

A CCTV system will be installed and maintained at the premises to the satisfaction of the police licencing officer and it will record continuously whenever the premises are open to the public. Unedited images will be securely stored for a period of not less than 28 days and copies promptly provided upon receipt of a lawful request to a constable or an employee of the police.

Tracey Warne was invited to the Police station on 06/09/19 to discuss the issues with the footage not being provided, Tracey was unable to attend but her [REDACTED] who predominantly manages the premises attended in her place. She was reminded of the conditions on the licence and how not providing the CCTV was a section 136 offence as it was a breach of the condition of the licence.

Whilst looking into the circumstances of the complaint [REDACTED] & [REDACTED] became aware of a number of concerns regarding the management of Thirsty Beak Café bar and these were raised with [REDACTED] during the meeting on the 06/09/19.

The concerns were related to the employment of the Security staff at the premises and how they deal with incidents of crime and disorder.

[REDACTED] was asked about the security company she used and she admitted to employing door staff directly and when asked if she had a non-frontline licence she asked what one of those was which suggested that she doesn't have one. [REDACTED] stated that she pays the doorstaff herself cash in hand, but she also gets an invoice (not sure who from) but tried to say that she pays Manit Security for their insurance.

[REDACTED] conducted a follow up enquiry [REDACTED] who is the owner of Voodoo in Macclesfield who is the owner of Manit Security and [REDACTED] advised that he has nothing to do with [REDACTED] and doesn't provide her with any security staff.

The list of 7 names of the door staff [REDACTED] stated worked for her on a regular basis were sent to the SIA who confirmed that only 2 had SIA badges. Checks were also done with the SIA to confirm whether Tracey or [REDACTED] have an SIA non-frontline licence and this it was confirmed that they did not.

When challenged about providing the CCTV [REDACTED] was unable to provide a telephone number for [REDACTED] to enable officers to contact him directly regarding obtaining the CCTV as she contacts him by Facebook messenger. [REDACTED] had to contact him and request that he contact [REDACTED]. By the time [REDACTED] was available to meet, it was 19/09/19 by which time the footage was no longer available. The premises had known since 30/08/19 that this footage was required and had no attempt to secure the CCTV before it was overwritten.

A number of licensing visits were carried out by the LPU and these identified a number of breaches of the premises licence.

The following Section 136 Licensing offences were identified:

The CCTV was not retaining the footage for 28 days as per the licence and on one occasion, the CCTV wasn't even recording when officers attended.

Customers were consuming drinks in the courtyard, but the premises licence states that drinks are for consumption on the premises only and the courtyard was not part of the area licenced by the premises licence.

The premises had held regulated entertainment in the courtyard which is not covered by the premises licence,

Door supervisors not on duty at 22:00 hours as per the premises licence conditions.

There were also concerns regarding the way Security staff are employed at the premises and how involved the DPS is in the day to day running of the premises.

[REDACTED] invited both Tracey Warne and [REDACTED] to Macclesfield Police Station on the 05/12/19 for an Action Plan meeting. Both Tracey and [REDACTED] were very reluctant to agree to the meeting and messed [REDACTED] around regarding whether they would or would not attend. Both did come in on the 5/12/19 and the action plan was agreed (this is detailed below).

On 23/01/20 (a week before Police conduct another licencing visit) Tracey Warne came to Macclesfield Police Station for an interview under caution with [REDACTED] and [REDACTED]. Tracey admitted to a number of licence offences which Cheshire East are looking to prosecute.

The action plan agreed on the 5th December 2019 is detailed below:

Action 1 – The CCTV currently installed at the premises is not fit for purpose and person(s) who have previously asked to view it or requested copies, have either been refused or have been obstructed so that the footage overwrites.

- Ensure the CCTV system records continuously at all times the premises are open to the public and the footage must be retained for at least 28 days.
- When requested, copies of CCTV to be provided to authorised personnel (i.e. Police Officers or Licensing Officers) as soon as practicable.
- For someone to always be on the premises that is able to work the CCTV system.

Action 2 – The premises has been known to employ door supervisors who either are known to the SIA but are not accredited to them, or are unregistered.

- Door Supervisors are to be employed via an SIA accredited security company or should the premises wish to employ directly they must have a valid SIA non-frontline licence.
- All door staff to ensure they sign in/out whenever they are on duty.

Action 3 – The Designated Premises Holder for the premises is Tracy Warne, however the premises are run and managed by [REDACTED] who is not a personal licence holder.

- [REDACTED] to attend a personal licence course and take over as the designated premises holder for the Thirsty Beak. Licensing will assist with arranging this course should [REDACTED] choose to do this.
- If the above is not adhered too then Tracy Warne is to take over the day to day control of the premises.

Action 4 – Although present, the Challenge 25 and no drugs posters are not in suitable enough locations within the premises.

- For the above mentioned posters to be more visible and prominent to members of the public within the premises.

Action 5 – Entertainment is being provided in non-licensed areas of the courtyard.

- Regulated entertainment is only to be held in areas stated on the Thirsty Beak premises licence plan.

Action 6 – On occasions when the premises have been visited the rear gate onto the car park has been locked which is against fire regulations.

- Ensure all fire escapes are freely accessible.

All actions with the exception of Action 3 were to be completed within 28 days.

Police conducted a licencing visit at the premises at 22.00 on Friday 31st January 2020.

Action 1-CCTV

There was no-one on site who could view or show Police the CCTV

Action 2-SIA Supervisors

No doorstaff were present. This visit was at the opening time of 22.00. Police were told that they were on the way

Action 3-DPS

There was an unknown male in charge (not a personal licence holder), no sign whatsoever of Tracy or [REDACTED]. Police were told Tracy was not in and [REDACTED] was on holiday

Action 4-Posters

There was only one challenge 2 notice behind the bar which I had to ask for where it was as it was not visible, only one drugs poster

Action 5-Entertainment

There was no entertainment anywhere within the courtyard

Action 6-Gate/Fire Regulations

The gates were open

Conclusion of review-Chief Inspector Jez Taylor

The staff at Macclesfield have been trying to work with the licensee but at this time, we are seeking to revoke the license of Thirsty Beak Café Bar. The licensee has total disregard for the license conditions currently on the premises licence; we feel that nothing would be achieved by adding further conditions given that Ms Warne is unable to adhere to the conditions currently on the licence.

The licensee has been provided with the support from the officers in Macclesfield along with advice on measures that can be taken in order to address the issues identified and for her to become compliant with the premises licence conditions. The police have shown in the information above that little or no action has been taken which is clearly undermining the licensing objectives and therefore I firmly believe that the Thirsty Beak should have their licence revoked.

If the committee decide against revocation of the licence for the Thirsty Beak Café Bar then we would hope that the following licence changes are considered:

- Reduction in opening hours from 03.00 to 00.00
- Supply of alcohol hours reduced from 03.00 to 00.00
- Change of DPS who will be in day to day control of the premises.

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day Month Year

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If you have made representations before relating to the premises please state what they were and when you made them

--

Please tick ✓

yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature 

Date **13th February 2020**
.....

Capacity **Police Chief Inspector-Macclesfield Local Policing Unit**
.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	Post Code
Telephone number (if any) 01606 364721	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) 	

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

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Premises Licence Summary

Premises Licence Number:

PREM1028

Premises Details

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

Thirsty Beak Cafe Bar

Unit 5c, Dukes Court
Mill Street
Macclesfield
Cheshire East

Post Town: Macclesfield

Post Code: SK11 6NN

Telephone Number:

Where the Licence is time limited, the dates:

Not applicable

Licensable activities authorised by the Licence:

Performance of Live Music
Playing of Recorded Music
Sale and Supply of Alcohol
Provision of Late Night Refreshment

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

Performance of Live Music (indoors)

Monday to Thursday 18:00 to 23:00 hours

Friday and Saturday 18:00 hours to midnight

Sunday 18:00 to 22:00 hours

Playing of Recorded Music (indoors)

Monday to Sunday 11:00 to 03:00 hours

From the end of permitted hours on New Year's Eve until 05:00 hours on New Year's Day

Sale and supply of alcohol

Monday to Sunday 11:00 to 03:00 hours

From the end of permitted hours on New Year's Eve until 05:00 hours on New Year's Day

Provision of Late Night Refreshment (indoors)

Monday to Sunday 23:00 to 03:00 hours

From the end of permitted hours on New Year's Eve until 05:00 hours on New Year's Day

The opening hours of the Premises:

Monday to Sunday 11:00 to 03:00 hours

From the end of permitted hours on New Year's Eve until 05:00 hours on New Year's Day

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

For consumption on the premises

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

Tracey Warne
34 Craig Road
Macclesfield
Cheshire
SK11 7XN

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

Not applicable

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

Tracey Warne

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

No one under 18 year of age may enter or remain on the premises after 20:00 hours.

Licence granted on 18th January 2017

N. Murphy

Signed by Nathan Murphy on behalf of Cheshire East Borough Council

Annex 1 - Mandatory Conditions (as applicable)

1. No supply of alcohol may be made under this Premises Licence –
 - a) at a time when there is no designated premises supervisor in respect of the Premises Licence, or
 - b) at a time when the designated premises supervisor does not hold a Personal Licence or his Personal Licence is suspended.
2. Every supply of alcohol under this Premises Licence must be made or authorised by a person who holds a Personal Licence.

Where a Village Hall is exempt from needing DPS under s.19 Licensing Act 2003

Every supply of alcohol under the premises licence must be made or authorised by the Management Committee.

Mandatory condition where the licence authorises the exhibition of films

The admission of children to the exhibition of any film must be restricted in accordance with section 20 of the Licensing Act 2003. Admission of children must be restricted in accordance with any recommendation made by the British Board of Film Classification or the Licensing Authority.

Prohibited conditions: plays

1. In relation to a premises licence which authorises the performance of plays, no condition may be attached to the licence as to the nature of the plays which may be performed, or the manner of performing plays, under the licence.
2. But subsection (1) does not prevent a licensing authority imposing, in accordance with section 18(2)(a) or (3)(b), 35(3)(b) or 52(3), any condition which it considers necessary on the grounds of public safety.

Mandatory condition: Door supervision

Each individual engaged in security activities at the premises must either:

- a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
- b) be entitled to carry out that activity by virtue of Section 4 of the Private Security Industry Act 2001.

**LICENSING ACT 2003 (MANDATORY LICENSING CONDITIONS)(AMENDMENT)
ORDER 2014**

MANDATORY CONDITIONS

Condition 1

1. The responsible person must ensure that staff on relevant premises no not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
2. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:
 - a) Games or other activities which require or encourage, or are designed to require or encourage individuals to –

- i. Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - ii. Drink as much alcohol as possible (whether within a time limit or otherwise);
- b) Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - d) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - e) Dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

Condition 2

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

Condition 3

1. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
2. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
3. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -
 - a) A holographic mark, or
 - b) An ultraviolet feature

Condition 4

The responsible person must ensure that –

- a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

- i. Beer or cider: ½ pint;
 - ii. Gin, rum, vodka or whisky: 25ml or 35ml; and
 - iii. Still wine in a glass: 125ml;
- b) These measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- c) Where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014

- 1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 2. For the purposes of the condition set out in paragraph 1—
 - a) ‘duty’ is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - b) ‘permitted price’ is the price found by applying the formula—

$$P = D + (D \times V)$$

Where —

- i. P is the permitted price,
 - ii. D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - iii. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- c) ‘relevant person’ means, in relation to premises in respect of which there is in force a premises licence—
- i. the holder of the premises licence,
 - ii. the designated premises supervisor (if any) in respect of such a licence, or
 - iii. the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- d) ‘relevant person’ means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- e) ‘valued added tax’ means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 - Conditions consistent with the Operating Schedule

Prevention of Crime and Disorder

- 1.No one under 18 years of age may enter or remain on the premises after 20:00 hours.
- 2.There will be a door supervisor on duty at the premises from 22:00 each Friday, Saturday and New Year's Eve and they will remain at the premises until they close to the public.
- 3.A CCTV system will be installed and maintained at the premises to the satisfaction of the police licensing officer and it will record continuously whenever the premises are open to the public. Unedited images will be securely stored for a period of not less than 28 days and copies promptly provided upon receipt of a lawful request to a constable or an employee of the police.
- 4.We will operate a zero tolerance drugs policy and notices will clearly be displayed within the venue.
- 5.No glass bottles or drinking vessels shall be taken out of the courtyard area.
- 6.An incident book will be kept to record any incidents that occur; and also an ID refusals log in respect of entry to the premises. These records will be kept at the premises and made available for inspection when requested by a Police Officer or a Local Authority Licensing Officer.
- 7.We will regularly attend PubWatch meetings and keep a record of who is barred.

Public Safety

- 8.Fire safety measures and procedures shall be in operation in accordance with Fire Safety Regulations.

Prevention of Public Nuisance

- 9.Recorded and live music will be played inside the venue only and the doors will remain closed at all times.
- 10.The courtyard will be kept clean and tidy at all times.
- 11.We will ensure all patrons leave the premises with minimal noise giving consideration to neighbours.
- 12.Anyone who appears to be intoxicated will not be served.

Protection of Children from Harm

- 13.An Age Challenge Scheme with an Age Challenge of not less than 25 years is in force for persons who appear to be less than 25.

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

Not applicable.

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[REDACTED]

From: LICENSING (Cheshire East)
Sent: 16-Mar-2020 15:48
To: [REDACTED]
Subject: [OFFICIAL] FW: Thirsty beak

Follow Up Flag: Follow up
Flag Status: Flagged

From: [REDACTED]
Sent: 16-Mar-2020 11:09
To: LICENSING (Cheshire East)
Subject: Thirsty beak

I have noticed the signage outside dukes court requesting for the Thirsty Beak license to be reviewed and I wished to send a representation.

I recently lived above one of the shops in Mill Street with my two young children. During this time, I can honestly say I experienced no issues with this premises. It seems incredibly well run and both [REDACTED] the regular door staff are undoubtedly two of the best door staff in Macclesfield.

I have never seen this venue require police assistance (unlike several other venues actually on Mill street where police were often called to).

More than this, I have seen Thirsty Beak manager and the doorstaff assist trouble at the takeaways and on the street into the early hours of the morning after the venue has closed. They clearly show a duty of care for not only their customers, but their neighbours and customers from other venues alike.

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Sent from my Android phone with GMX Mail. Please excuse my brevity.

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[REDACTED]

From: LICENSING (Cheshire East)
Sent: 16-Mar-2020 15:40
To: [REDACTED]
Subject: [OFFICIAL] FW: Thirsty Beak Dukes Court, Macclesfield

Follow Up Flag: Follow up
Flag Status: Flagged

From: [REDACTED]
Sent: 15-Mar-2020 18:42
To: LICENSING (Cheshire East)
Subject: Thirsty Beak Dukes Court, Macclesfield

To whom it may concern,

I'm writing this representation on behalf of myself and my partner, [REDACTED] - in regards to the application to review the Thirsty Beak premises license.

We [REDACTED] (both in Dukes Court) and in recent months we have taken over the [REDACTED] which is set to open in the next few weeks.

I met [REDACTED] and Tracey Warne several years ago now when I started [REDACTED] and can honestly say I've never had any issues with the running of any of their businesses in the courtyard. In fact, they are a very valuable asset to ourselves and other businesses as they bring in a regular footfall to the courtyard.

They are both very pro active and work incredibly hard together to make them a success. I'm aware that in more recent months, Tracey has taken more of a back seat due to poor health and I see [REDACTED] almost every hour of the day and night. I am often working late at night and wouldn't even know the bar was open. I am never disturbed by any of their customers or the operational hours of the business. The staff and doorstaff ensure that the courtyard is always left clean and tidy. There is a brilliant doorman called [REDACTED] on site every night to ensure there are no problems. I am also a customer of Thirsty Beak and it is undoubtedly my favourite place to go. In particular, I am not a fan of the drugs culture that is so prevalent in other venues and one of the reasons I enjoy Thirsty Beak is because they do not allow people to do this. Having two doorstaff on a very small venue ensures this is heavily monitored.

I would also like to comment that while I see no trouble within the bars at the courtyard, in recent months I have often seen police cars parked up the street quite frequently.

I understand that the posters have been put up for a review of this license and I know that a lot of people would be incredibly saddened at the loss or change of this staple piece of Macclesfield nightlife.

Yours Faithfully
[REDACTED]

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Sent from a iPhone 7 Plus

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