

OPEN

By virtue of paragraph(s) X of Part 1 Schedule 1 of the Local Government Act 1972.

Licensing Act Sub-Committee

26 October 2023

**Application for a Premises Licence –
The Wharf Inn, 121 Canal Road,
Congleton. CW12 3AP**

Report of: Jayne Traverse, Executive Director – Place

Ward(s) Affected: Congleton East

Purpose of Report

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

The Wharf Inn, 121 Canal Road, Congleton, CW12 3AP

Executive Summary

- 2 The report provides details of an application for a Premises Licence, under section 17 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 21st August 2023 an application was received by the Licensing Department for a premises licence in respect of a premises known as The Wharf Inn, 121 Canal Road, Congleton. CW12 3AP. The application was sent for consultation on the same day (21st August 2023). The last date for representations to be made was 8th September 2023. As part of the application process the applicant is required to display for a notice at or near to the premises, for the duration of the consultation period, detailing information relating to the application. On 7th September 2023, a Licensing Officer visited the premises to check the notice. At the time of the visit, no notice was present, and the application was deemed to be invalid on 7th September 2023. A copy of the full application and plan is attached to this report at **Appendix 1**.
- 4 The application for a premises licence was restarted on 8th September 2023 and the last day for representations was 6th October 2023. A copy of the full application and plan is attached to this report at **Appendix 2**.
- 5 Licensing records show a premises licence had been in place at the premises. However, the Premises Licence Holder went into liquidation on 25th July 2022 no application was received by Cheshire East Licensing to transfer the licence and therefore the licence lapsed. A copy of the lapsed Premises Licence is attached to this report at **Appendix 3**.
- 6 The current application for a new Premises Licence for The Wharf Inn sets out the same times for licensable activities as the lapsed Premises Licence.

The hours applied for licensable activities are as follows:

Supply of alcohol (for consumption on & off the premises)

Sunday to Thursday - 10.00 to 00.00 hours

Friday and Saturday – 10.00 to 01.00 hours

Performance of Recorded Music

Sunday to Thursday - 10.00 to 00.00 hours

Friday and Saturday – 10.00 to 01.00 hours

- 7 A map of the area in which the premises is located is attached to this report at **Appendix 4**.

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 relating to the most current application was inspected by a Licensing Officer on 20th September 2023 and confirmed to be present, and met the requirements under the regulations. The Public Notice has also been duly advertised in the Congleton Chronicle, as required.

9 Responsible Authorities:

The Licensing Authority has received representations from Cheshire Police who have agreed conditions with the applicant. A copy of the agreed conditions are attached to this report at **Appendix 5**.

10 Other Persons:

11 The Licensing Authority has received a number of representations from members of the public. A copy of the representations are attached to this report at **Appendix 6**.

Reasons for Recommendations

12 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.

13 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

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

Implications and Comments

Monitoring Officer/Legal

- 15 The Sub Committee must determine this application in accordance with section 18 of the Licensing Act 2003. To do so otherwise would render its determination unlawful and invalid.
- 16 In accordance with the provisions of section 18 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.
- 17 Section 18 (4) provides that the authority may:
 - a) Grant the licence subject to conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the authority considers appropriate for the promotion of the licensing objectives and any mandatory conditions that must be included on the licence in accordance with the Licensing Act 2003;
 - b) Exclude from the scope of the licence any of the Licensable Activities to which the application relates;
 - c) Refuse to specify a person in the licence as the Premises Supervisor;
 - d) Reject the application.
- 18 Members are reminded that should any conditions be added or amended, they should be practical, enforceable and appropriate to promote the Licensing Objectives.
- 19 Members may not extend the period for which the licence has effect.
- 20 Members may not vary substantially the premises to which the licence relates.
- 21 Members may vary the premises licence so that it has effect subject to different conditions in respect of different parts of the premises or different licensable activities.
- 22 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.
- 23 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.

- 24 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.
- 25 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.
- 26 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

- 27 There are no financial implications.

Policy

- 28 The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003.
- 29 The Licensing Authority must also have due regard to the guidance issued under section 182 of the Licensing Act 2003.
- 30 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

- 31 There are no equality implications

Human Resources

- 32 There are no human resources implications.

Risk Management

- 33 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

34 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)

35 There are no implications for children and young people.

Public Health

36 There are no direct implications for public health.

Climate Change

37 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 1 – Application & Plan Appendix 2 – Current Application & Plan Appendix 3 – Lapsed Premises Licence Appendix 4 – Map of General area Appendix 5 –Representations from Responsible Authorities Appendix 6 – Representations from Members of the Public
Background Papers:	Revised Guidance issued under section 182 of the Licensing Act 2003 (publishing.service.gov.uk) Council's Statement of Licensing Policy published under section 5 of the Licensing Act 2003 Licensing Act 2003 The Licensing Act 2003 (Hearings) Regulations 2005