

OPEN

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

Licensing Act Sub-Committee

25th April 2024

**Application for a full variation of a
Premises Licence –**

**The Studio
Castle Street
Nantwich
CW5 5BA**

**Report of: Peter Skates, Acting Executive Director – Place
Ward(s) Affected: Nantwich South & Stapeley**

Purpose of Report

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

The Studio, Castle Street, Nantwich, CW5 5BA

Executive Summary

- 2 The report provides details of an application for a full variation of 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 19th February 2024 an application was received by the Licensing Team for the variation of a Premises Licence in respect of a premises known as The Studio, Castle Street, Nantwich, CW5 5BA.

- 4 The application was sent for consultation. The last date for representations to be made was 27th March 2024. A copy of the full application is attached to this report at **Appendix 1**.
- 5 The plan of the premises is attached at **Appendix 2**.
- 6 A map of the area in which the premises is located is attached to this report at **Appendix 3**.
- 7 Premises Licence 278 currently relates to this premises, a copy of which is attached to this report at **Appendix 4**.
- 8 The operating schedule indicates that the relevant licensable activities that will be subject to change if this application is successful are:
- i) the provision of recorded music;*
- ii) the provision of performances of dance;*
- iii) provision of anything of a similar description to live music, recorded music or performances of dance;*
- iv) the supply of alcohol.*
- 9 The hours applied for are as follows (together with the current hours, for comparison):

10 **Provisions of Recorded Music (indoors only):**

| | Applied for start time | Applied for end time | Current start time | Current end time |
|-----------|------------------------|----------------------|--------------------|------------------|
| Monday | 12:00 | 03:00 | 12:00 | 03:00 |
| Tuesday | 12:00 | 03:00 | 12:00 | 03:00 |
| Wednesday | 12:00 | 03:00 | 12:00 | 03:00 |
| Thursday | 12:00 | 03:00 | 12:00 | 03:00 |
| Friday | 12:00 | 04:00 | 12:00 | 03:00 |
| Saturday | 12:00 | 04:00 | 12:00 | 03:00 |
| Sunday | 12:00 | 02:00 | 12:00 | 02:00 |

Non-standard times applied for:

The opening hours and all licensable activities are extended to 03.30 and to 03.00 hours respectively on Sundays when the Sunday falls on one of the

following days or dates: Bank Holiday Sundays, Burns' Night, Valentine's Night, 29th February, 1st March, 17th March, Maundy, Thursday, Good Friday, 23rd April, 31st October, 30th November, 24th December; 27th December and 28th December.

The closing hour and all licensable activities are also extended as follows: by one hour on the Sunday that British Summertime commences, and on New Years Eve until the start of licensable activities on New Years Day.

11 **The provision of performances of dance (indoors only):**

| | Applied for start time | Applied for end time | <i>Current start time</i> | <i>Current end time</i> |
|-----------|-------------------------------|-----------------------------|---------------------------|-------------------------|
| Monday | 12:00 | 03:00 | <i>12:00</i> | <i>03:00</i> |
| Tuesday | 12:00 | 03:00 | <i>12:00</i> | <i>03:00</i> |
| Wednesday | 12:00 | 03:00 | <i>12:00</i> | <i>03:00</i> |
| Thursday | 12:00 | 03:00 | <i>12:00</i> | <i>03:00</i> |
| Friday | 12:00 | 04:00 | <i>12:00</i> | <i>03:00</i> |
| Saturday | 12:00 | 04:00 | <i>12:00</i> | <i>03:00</i> |
| Sunday | 12:00 | 02:00 | <i>12:00</i> | <i>02:00</i> |

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The closing hour and all licensable activities are also extended as follows: by one hour on the Sunday that British Summertime commences, and on New Years Eve until the start of licensable activities on New Years Day.

The provision of anything of a similar description to live music, recorded music or performances of dance (indoors only):

| | Applied for start time | Applied for end time | <i>Current start time</i> | <i>Current end time</i> |
|-----------|-------------------------------|-----------------------------|---------------------------|-------------------------|
| Monday | 12:00 | 03:00 | <i>12:00</i> | <i>03:00</i> |
| Tuesday | 12:00 | 03:00 | <i>12:00</i> | <i>03:00</i> |
| Wednesday | 12:00 | 03:00 | <i>12:00</i> | <i>03:00</i> |
| Thursday | 12:00 | 03:00 | <i>12:00</i> | <i>03:00</i> |
| Friday | 12:00 | 04:00 | <i>12:00</i> | <i>03:00</i> |
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The closing hour and all licensable activities are also extended as follows: by one hour on the Sunday that British Summertime commences, and on New Years Eve until the start of licensable activities on New Years Day.

The supply of alcohol (for consumption on the premises only):

| | Applied for start time | Applied for end time | <i>Current start time</i> | <i>Current end time</i> |
|-----------|-------------------------------|-----------------------------|---------------------------|-------------------------|
| Monday | 12:00 | 03:00 | <i>12:00</i> | <i>03:00</i> |
| Tuesday | 12:00 | 03:00 | <i>12:00</i> | <i>03:00</i> |
| Wednesday | 12:00 | 03:00 | <i>12:00</i> | <i>03:00</i> |
| Thursday | 12:00 | 03:00 | <i>12:00</i> | <i>03:00</i> |
| Friday | 12:00 | 04:00 | <i>12:00</i> | <i>03:00</i> |
| Saturday | 12:00 | 04:00 | <i>12:00</i> | <i>03:00</i> |
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The closing hour and all licensable activities are also extended as follows: by one hour on the Sunday that British Summertime commences, and on New Years Eve until the start of licensable activities on New Years Day.

14 **Opening hours:**

| | Applied for open time | Applied for closing time | <i>Current open time</i> | <i>Current closing time</i> |
|-----------|------------------------------|---------------------------------|--------------------------|-----------------------------|
| Monday | 12:00 | 03:30 | <i>12:00</i> | <i>03:30</i> |
| Tuesday | 12:00 | 03:30 | <i>12:00</i> | <i>03:30</i> |
| Wednesday | 12:00 | 03:30 | <i>12:00</i> | <i>03:30</i> |
| Thursday | 12:00 | 03:30 | <i>12:00</i> | <i>03:30</i> |
| Friday | 12:00 | 04:30 | <i>12:00</i> | <i>03:30</i> |
| Saturday | 12:00 | 04:30 | <i>12:00</i> | <i>03:30</i> |
| Sunday | 12:00 | 02:30 | <i>12:00</i> | <i>02:30</i> |

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The opening hours and all licensable activities are extended to 03.30 and to 03.00 hours respectively on Sundays when the Sunday falls on one of the following days or dates: Bank Holiday Sundays, Burns' Night, Valentine's Night, 29th February, 1st March, 17th March, Maundy Thursday, Good Friday, 23rd April, 31st October, 30th November, 24th December; 27th December and 28th December.

The closing hour and all licensable activities are also extended as follows: by one hour on the Sunday that British Summertime commences, and on New Years Eve until the start of licensable activities on New Years Day.

Other information:

- 15 The premises has so far had nine Temporary Event Notices in 2024. The nature of those Notices was to extend the sale by retail of alcohol, late night refreshment and the provision of regulated entertainment from 03:00 to 04:00. Seven of those Notices related solely to the early hours of Sunday, while two Notices were in relation to the early hours of both Saturday and Sunday.
- 16 No objections were received by Licensing from the Police or Environmental Protection to those Notices, nor did Licensing subsequently receive any complaints regarding the events.
- 17 Licensing have not received any complaints about the premises in 2024.

Consultation and Engagement

- 18 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, has been inspected by a Licensing Officer on 1st March 2024 and confirmed to be present, and met the requirements under the regulations. The Public Notice was advertised in The Link on 28th February 2024.

19 Responsible Authorities:

The Licensing Authority has received representations from Environmental Health and Fire & Rescue. They are attached at **Appendix 5 & Appendix 6**. No representation was received from the Police.

20 Other Persons:

The Council has received five representations against the application from members of the public. They are attached at **Appendix 7**. Those representations were in relation to the following Licensing Objectives:

- i) The prevention of crime and disorder;*
- ii) Public safety;*
- iii) The prevention of public nuisance.*

Reasons for Recommendations

21 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.

22 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

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

Implications and Comments

Monitoring Officer/Legal

24 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.

- 25 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.
- 26 Section 35 (4) provides that the authority may:
- Modify the conditions of the licence
 - Reject the whole or part of the application
- 27 Members are reminded that should any conditions be added or amended, they should be practical, enforceable and appropriate to promote the Licensing Objectives.
- 28 Members may not extend the period for which the licence has effect.
- 29 Members may not vary substantially the premises to which the licence relates.
- 30 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.
- 31 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.
- 32 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.
- 33 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.
- 34 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.
- 35 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

36 There are no financial implications.

Policy

37 The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003.

38 The Licensing Authority must also have due regard to the guidance issued under section 182 of the Licensing Act 2003.

39 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

40 There are no equality implications.

Human Resources

41 There are no human resources implications.

Risk Management

42 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

43 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)

44 There are no implications for children and young people.

Public Health

45 There are no direct implications for public health.

Climate Change

There are no implications for climate change.

| Access to Information | |
|------------------------------|---|
| Contact Officer: | Richard Hellon |
| Appendices: | <p>Appendix 1 – Application Form</p> <p>Appendix 2 – Plan</p> <p>Appendix 3 – Map</p> <p>Appendix 4 – Current premises licence</p> <p>Appendix 5 – Environmental Health Response</p> <p>Appendix 6 – Fire and Rescue Response</p> <p>Appendix 7 – Representations from members of the public</p> |
| Background Papers: | <p>Revised Guidance issued under section 182 of the Licensing Act 2003 (publishing.service.gov.uk)</p> <p>Council's Statement of Licensing Policy published under section 5 of the Licensing Act 2003</p> <p>Licensing Act 2003</p> <p>The Licensing Act 2003 (Hearings) Regulations 2005</p> |