

DECISION NOTICE

LICENSING ACT 2003

Applicant: Mark Vyse on behalf of Environmental Health, Cheshire East

Application: Review of the Premises Licence number PREM281

Premises: The Leopard Inn, 33 London Road, Nantwich, CW5 6LJ

Application Hearing: 21 October 2024

Committee: Licensing Act Sub Committee of Cheshire East Council

Committee Decision

That considering the information presented, the premises is undermining the prevention of public nuisance objective and the licence is amended in the following terms:

1. The speakers situated in the area identified as Hunter's Hideout ("HH") be removed with immediate effect;
2. Any doors providing access from the pub to the garden remain closed from 8pm each evening (save for access and egress); and
3. No live or recorded music is to be played in any outdoor areas at any time.

The Subcommittee considered the following material:

1. The Applicant's Application;
2. The existing Premises Licence;
3. Written representations from the Licence Holder;
4. Written representations from objectors;
5. Written representations from supporters;
6. The 4 licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm) and the steps appropriate to promote them;
7. The oral evidence of the Environmental Health officer at the hearing;
8. The oral evidence of the Licensing Officer at the hearing;
9. The oral evidence of Anna Brakel on behalf of the Licence Holder at the hearing;
10. The oral evidence of supporters of the application at the hearing;
11. Video footage.
12. Audio recordings.

13. The Licensing Act 2003 & Guidance thereto (Dec 2023); and

14. Cheshire East Council's Statement of Licensing Policy

Application

The application is for a review of an existing premises licence (licensing number PREM281).

Representations

There were written representations from 3 objectors and 6 supporters of the application. The supporter's representations raised the following issues:

Supporters

The Prevention of Public Nuisance

- Neighbouring properties are unable to spend time in their gardens due to intense noise all afternoon until 9pm.
- Noise continuing after 9pm with people using the benches adjacent to the neighbour's fences.
- Increase in traffic congestion on residential streets within the vicinity of the pub.
- Inability for local residents to park near their homes.
- The roof on the outside structure amplifying the noise.

There were no representations from any of the following responsible authorities: Cheshire Constabulary, Cheshire Fire and Rescue Service Cheshire East, Public Health, the Children's Safeguarding Partnership.

A submission was made by Cheshire East Council Licensing Team detailing the recent history of the premises.

Determination

Substantive Issues

Where an application comes before the sub-committee, having regard to any relevant representations, the sub-committee may take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- a) to modify the conditions of the licence;
- b) to exclude a licensable activity from the scope of the licence;
- c) to remove the designated premises supervisor;
- d) to suspend the licence for a period not exceeding three months;
- e) to revoke the licence;

The sub-committee determined that conditions should be imposed on the licensing activities at the premises. In coming to this decision, the sub-committee considered the impact of reviewing the licence on the licensing objectives These are:

The Prevention of Crime and Disorder

The Cheshire East Council Statement of Licensing Policy 2019 - 2024 requires the Licensing Authority to consider whether the premises to be licensed make or will make a detrimental contribution to levels of crime and disorder and whether the Applicant's Operating schedule is based on adequate risk assessment of the likelihood of crime and disorder occurring as a result of the application.

Public Safety

The Cheshire East Council Statement of Licensing Policy 2019 - 2024 requires the Licensing Authority to have regard to the physical safety of customers using the premises to be licensed.

The Prevention of Public Nuisance

The Cheshire East Statement of Licensing Policy 2019 – 2024 requires the Licensing Authority to consider the potential impact of the licensed premises on the surrounding locality and will consider the type of licensed activity, the proposed hours of operation, the capacity of the premises, the character of the area and the proximity to local residents.

The Protection of Children from Harm

The Cheshire East Council Statement of Licensing Policy 2019 - 2024 requires the Licensing Authority to consider whether there are effective measures to check the age of those young people who appear to be under 25, to ensure alcohol is not sold to those under 18 and those under 16 are accompanied in alcohol-led premises where the supply of alcohol for consumption on the premises is the exclusive or primary purpose.

Reasons

The sub-committee considered the following:

- The fact that no objections had been received to the Application from any responsible authorities. This suggests a lack of concern about the Application on the part of the:
 - Cheshire Constabulary - responsible for the control of crime and disorder.
 - Public Health – concerned with substance abuse
 - Trading Standards – responsible for the monitoring and control of underage alcohol sales.
- That s.177A of the Licensing Act 2003 is applicable in this matter, namely that a licensing authority may add a condition relating to music as if (a) the music were regulated entertainment, and (b) the licence or certificate licensed the music.
- Playing music outside did not breach the terms of the existing licence, but was causing a nuisance to neighbouring properties.
- The Licensee has applied for retrospective planning permission for HH which may or may not be granted. If it is refused and not appealed, or if appealed is unsuccessful, the structure will have to be removed in any event.
- If retrospective planning is granted it may impose conditions to address the noise complaints.
- It could take some time for a decision to be made regarding the planning permission, however a decision can nonetheless be made by the sub-committee given that

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licensing and planning are two separate issues and not dependent on one another in terms of decisions and outcomes.

- HH had not been built when the supporters who gave oral evidence at the hearing had purchased their property.
- Because speakers were playing music into that area, pub patrons would inevitably raise their voices to speak above the music thus raising the volume.
- The video and audio evidence demonstrated that the noise levels are excessive.
- If there was no music playing outside patrons would speak at a less audible volume.
- The pub was at times not adhering to its own policy regarding playing music from inside the pub through the speakers situated in HH.
- The noise levels were having a negative effect on the neighbouring properties and the enjoyment of their own homes.
- There had been no complaints about noise of people talking from the beer garden prior to the construction of HH.

Conclusion

Having regard to the above the sub-committee considered it appropriate to place conditions upon the provision and live and recorded music in the garden and area known as Hunter's Hideaway.

Dated this 24th day of October 2024

If you are aggrieved by this Decision of Cheshire East Council, you may appeal to a magistrate's court within 21 days of being notified of this decision.

You are advised to seek independent legal advice before doing so.