

CHESHIRE EAST COUNCIL

LICENSING ACT SUB-COMMITTEE

Date of meeting: 28th October 2011
Report of: CAROLE KERR, LICENSING OFFICER
Title: APPLICATION FOR VARIATION TO PREMISES LICENCE.
WHITE HORSE, PILLORY STREET, NANTWICH.

1.0 Report Summary

- 1.1 The report provides details of an application from Spirit Pub Company Ltd to vary the Premises Licence for the White Horse, Pillory Street, Nantwich. Representations to the variation have been received from seven residents in the vicinity of the application site.

2.0 Recommendations

- 2.1 The Licensing Act Sub-Committee is requested to:
 - 2.1.1. consider the application and the representations received; and
 - 2.1.2. determine the application for the variation to the Premises Licence

3.0 Reasons for Recommendations

- 3.1. The Licensing Act Sub-Committee has the power to determine this application. The Sub-Committee is asked to make the decision within 2.1 above taking into consideration the promotion of the licensing objectives and must also have regard to the Council's Statement of Licensing Policy and the Guidance published under section 182 of the Licensing Act 2003.

4.0 Wards Affected

- 4.1. Nantwich South and Stapeley

5.0 Local Ward Members

- 5.1. Cllrs A.Martin and P.Groves

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 under the Act.

7.0. Financial Implications 2011/2012 and beyond (Authorised by the Borough Treasurer)

7.1 None.

8.0. Legal Implications (Authorised by the Borough Solicitor)

8.1. Section 35 of the 2003 Act provides that, where relevant representations have been received in relation to an application to vary a premises licence, the authority must hold a hearing to consider the application and any relevant representations. In accordance with the provisions of section 35 of the 2003 Act, 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 necessary for the promotion of the licensing objectives. Sub-section 35(4) provides that the authority may: (a) modify the conditions of the licence; or (b) reject the whole or part of the application;

9.0 Risk Management

9.1 The Licensing Act Sub-Committee will hear representations made on behalf of both the applicant and the objectors and will make a decision on the basis of the evidence presented to it. The Act provides a right of appeal to the Magistrates' Court against a decision of the Licensing Authority.

10.0 Background and Options

10.1 The White Horse, Pillory Street, Nantwich is licensed for the provision of regulated entertainment and the sale of alcohol as follows:-

Monday to Sunday	10.00 to 01.00
Sundays	10.00 to 22.30

The opening hours of the premises are as follows:-

Monday to Sunday	09.00 to 02.00
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A copy of the existing premises licence is attached as **Appendix A**.

10.2 The application is to vary the licence as follows:

Sale of alcohol

Monday to Sunday	10:00 to 02:00
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Recorded music and live music (indoors)

Monday to Sunday	10:00 to 02:30
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Late night refreshment

Monday to Sunday	23:00 to 03:00
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The opening hours of the premises

Monday to Sunday	09.00 to 03.00
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To add the following conditions:-

Live and/or recorded music after 02:00 to be played at a background level only.
from 10:00am until 23:00.

Recorded music in the garden area to be played at background level only from
10.00 until 23.00.

The management will carry out regular patrols of the premises in order to
monitor the escape of noise and to ensure that it does not cause a nuisance.

10.3 The premises are situated in a row of terraced properties in Nantwich town
centre. The beer garden and car park are at the rear of the premises.
Residential properties are also situated to the rear of the premises. A location
plan is attached at **Appendix B**.

10.4 The White Horse applied in 2005 to convert their existing Public Entertainment
Licence to a Premises Licence under the Licensing Act 2003. Following
objections from interested parties, the Sub-Committee resolved that a licence
be granted subject to the following conditions:

- No nuisance shall be caused by noise coming from the premises or by
vibration transmitted through the structure of the premises.
- All external doors and windows shall be kept closed when regulated
entertainment is being provided except in the event of an emergency.
- Refuse such as bottles shall be disposed of from the premises at a time
i.e., between 8:00am and 8:00pm when it is not likely to cause a
disturbance to residents in the vicinity of the premises.
- The beer garden/outdoor drinking area shall be closed to patrons by
11:30pm.

10.5 In June 2007 application was made to amend the condition relating to the
closure of the Beer Garden, as follows:

The beer garden/outdoor drinking area shall be closed to customers consuming
alcohol and food by 23:00 hours.

Representations were received and at a meeting on 8th June 2007 the Sub-
Committee refused the application on the ground of public nuisance. The
decision of the Sub-Committee was the subject of an appeal to the Magistrates'
Courts, who determined to add the following condition to the licence:

*The Beer Garden/Outdoor drinking area shall be closed at 23.00 hours except
for the purpose of the designated smoking area. No more than twenty people
may use the area at any one time. The condition is subject to there first being
installed a double entry system. The appellant must submit the plan for
agreement to the Licensing Authority clearly showing where the designated
area is to be. This is to be the area closest to the licensed premises.*

*The Beer Garden/Outdoor Drinking area may not be used after 23:00 hours for
the purpose of smoking until the double door entry system has been installed.*

It is understood that the works to install a double entry system have not taken place and therefore the authorisation provided by the condition imposed by the Magistrates' Court has not been brought into effect.

- 10.6 At a meeting on 5th May 2009 (at which time Punch Taverns Plc were the holders of the licence) the Licensing Act Sub-Committee considered a review application in relation to the premises and determined to modify the Premises Licence by the addition of the conditions at Annex 4 of the Premises Licence.

10.7 Relevant Representations

Responsible Authorities

- 10.7.1 The Police do not object to the application subject to the addition of the following conditions:

- The premises will close to the public at 02:30 each day
- The provision of late night refreshment will cease at 02:30 each day

The applicant has agreed the conditions suggested by the Police.

- 10.7.2 The Environmental Health Department have made a representation in which they object to the grant of the variation application. A copy of the Environmental Health objection is attached at **Appendix C**.

Public Objections

- 10.7.3 Written representations have been received from seven residents who live in the vicinity of the application site. Copies of the letters of representation are attached at **Appendix D**.

- 10.7.4 In making its decision, the Sub-Committee must have regard to the application and representations made by interested parties and Responsible Authorities.

11.0 Access to Information.

There are no background papers associated with this report.

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