

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING ACT SUB-COMMITTEE

Date of Meeting:	Tuesday 18th March 2014 at 2.30pm
Report of:	Mrs N Cadman, Licensing Officer
Subject/Title:	Application for a Premises Licence at A & K E-Shops Ltd, 117a West Street, Crewe, CW1 3HH

1.0 Report Summary

- 1.1 The report provides details of an application for premises licence and the proposed operating schedule together with details of relevant representations received in relation to the application.

2.0 Recommendations

- 2.1 The Licensing Act Sub-Committee is requested to determine the application for a new Premises Licence by A & K E-Shops Ltd in respect of:

A & K E Shops Ltd
117a West Street
Crewe
CW1 3HH

- 2.2 The premises currently benefits from a Premises Licence issued on 5th November 2013 which is set out at Appendix 2. The existing Premises Licence authorises on-line sales only for delivery only.
- 2.3 Acting in the capacity of Licensing Authority, Members must seek to promote the Licensing Objectives, and where Members consider 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 application and relevant representations in light of the current and proposed operating schedules.
- 2.5 The Sub-Committee in respect of this application must have regard to the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy.

2.6 Finally, Members are also reminded that in determining the application in accordance with the Licensing Act 2003, Members must also have regard to:

- § The rules of natural justice
- § The provisions of the Human Rights Act 1998

3.0 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.

4.0 Wards Affected

4.1 Crewe Central

5.0 Local Ward Members

5.1 Cllr Irene Faseyi

6.0 Policy Implications

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

6.2 Whilst having regard to the general principles within the Statement, Members may wish to consider the following:

6.2.1 Planning and need for Licensed Premises

4.1 When exercising its licensing functions the Licensing Authority will not be influenced by questions of need. The issue of whether or not there is a need for a particular premises is a commercial matter, which is not relevant to the Licensing Authority's considerations.

Commercial Demand

22.2 The commercial demand for additional premises licenses (as distinct from cumulative impact) will not be a matter for the Licensing Authority, such matters being a specific consideration for the Planning Authority.

6.2.2 The majority of representations relate to the Prevent of Public Nuisance Objective. The Licensing Authority sets out a paragraph 9 of its Statement of Licensing Policy how it will deal with representations under this objective.

6.2.3 The Statement of Licensing Policy also deals with issues of Anti-social behaviour at paragraph 6 and the Prevention of Crime and Disorder at paragraph 7.

6.3 Members should provide reason(s) for any decision taken and should set out they reasoning where they determine to depart in any way from the Policy or Guidance.

7.0 Financial Implications

7.1 Not applicable.

8.0 Legal Implications

8.1 In accordance with the provisions of section 18 of the Licensing Act 2003 the Licensing Authority must, having regard to the representations, take such steps (if any) as it considers appropriate for the promotion of the licensing objectives. Section 18(4) provides that the authority may:

- (a) Grant the licence subject to the relevant mandatory conditions and conditions consistent with the operating schedule
- (b) Modify the application to such extent as the Authority considers appropriate for the promotion of the Licensing Objectives
- (c) Exclude from the scope of the licence any of the Licensable Activities to which the application relates
- (d) Refuse to specify a person in the licence as the Premises Supervisor
- (e) Reject the application.

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

8.3 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 re-offending.

9.0 Risk Management

9.1 Section 181 and Schedule 5 of the Licensing Act 2003 make provision for appeal to the Magistrates' Court of any decision made by the Licensing Authority.

10.0 Background and Options

10.1 The application, received on the 30th January 2014, is for the grant of a Premises Licence under section 17 of the Licensing Act 2003. The application was initially received on 21st January 2014, but was made invalid due to an error relating to the public notice.

10.2 The operating schedule indicates that the relevant licensable activities applied for are:

- § Sale and supply of alcohol
- § Late Night Refreshment

10.3 The hours applied for are as follows:

Sale and supply of alcohol (for consumption off the premises only)

Monday to Sunday 17.00hrs to 06.00hrs

Late Night Refreshment (to take place both indoors and outdoors)

Monday to Sunday 23.00 to 06.00hrs

Hours Premises are Open to the Public

Monday to Sunday 17.00hrs to 06.00hrs

10.4 A copy of the application form is attached as Appendix 1.

10.5 Relevant Representations

Responsible Authorities:

10.5.1 The Police in their response state: At 10:30am on Monday 10th February 2014, I met on site with, Mr Karol Paterek, the applicant for a Premises Licence at 117A West Street, Crewe, CW1 3HH. We discussed the application in some detail. Mr Paterek agreed to some changes to the application and also agreed to a number of conditions being attached to the premises licence, when issued, in order to promote the licensing objectives. You will note that I have copied Mr Paterek into this email and the detail is as follows:

Changes:

The application is to be amended so that alcohol may only be sold for consumption OFF the premises.

The plan is to be amended such that the hatch, through which sales will be made to people who actually call at the premises, will be located within the front door and an amended plan will follow.

Conditions:

(1) No members of the public will be allowed into the premises during trading hours.

(2) All sales made to people who visit the premises will be transacted through a hatch fitted to the front door on West Street.

(3) All alcohol sales made to people who visit the premises will be subjected to the Challenge 25 proof of age scheme.

(4) Deliveries of alcohol will only be made to either a residential or business address and never to a person in a public place.

(5) Alcohol deliveries will only take place within a 10 mile radius of the premises.

(4) Every on-line, internet or other electronic sale of alcohol must require the purchaser to declare that they are aged at least 18 years of age and identify that proof of age will be required at the point of delivery.

(6) At the point of delivery of alcohol a 'Challenge 25' standard proof of age check will be made and alcohol will never be left with a person aged less than 18 years of age.

(7) A CCTV system will be installed at the premises to the satisfaction of the police licensing officer and it will record images continuously whilst the premises are open to the public.

Please forward to me a copy of the new licence when issued and at this time it is Mr Paterek's intention to surrender his existing licence, which only allows deliveries, assuming the new one allows him to do what he intends.

10.5.2 The Environmental Health Officer wishes to approve the application with conditions.

The following conditions should be applied:

Prevention of Public Nuisance

In order to protect the interest of local residents and ensure that the licensing objective of public nuisance prevention is upheld: all necessary steps shall be taken to ensure that any noise from the premises shall not be at a level which could cause a noise nuisance to adjoining and adjacent residential properties, therefore:

1. No nuisance shall be caused by noise coming from the premises.
2. Customers shall only be served from the hatch located to the front of the shop on West Street.
3. There shall be notices located at the hatch requesting that customers leaving the premises do so quietly and with consideration to neighbours.

The applicant has agreed to the Police and Environmental Health Officer's conditions in writing. A revised plan of the premises has been submitted to show the new location of the serving hatch – see Appendix 3 of this report.

10.5.3 The Fire Officer states in his response: The issue from a Fire Service point of view is the compliance with the Fire safety Order 2005 which requires all licensed premises to hold a written fire risk assessment.

There were no responses from any of the other Responsible Authorities.

Other Persons:

10.5.4 The Council received 4 valid written objections from local residents and one from the local Ward Councillor Irene Faseyi, who is also a local resident. The persons who made valid written objections were made aware of the applicant's agreement with the Police and the Environmental Health Officer's

conditions. Following this, two of the objectors withdrew their objections. Copies of the remaining 3 letters of objections are attached as Appendices 4 - 6 of this report.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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APPENDICES

- Appendix 1 – Premises Licence application form
- Appendix 2 - Existing Premises Licence
- Appendix 3 - Revised plan of premises
- Appendix 4 – 6 Written objections from local residents
- Appendix 7 – Map of area.