

# CHESHIRE EAST COUNCIL

## REPORT TO: LICENSING ACT SUB-COMMITTEE

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<b>Date of Meeting:</b>	<b>15<sup>th</sup> October 2014 at 09:30am</b> <b>Tatton Room, Macclesfield Town Hall</b>
<b>Report of:</b>	<b>Mrs Amanda Hinton</b>
<b>Subject/Title:</b>	<b>Application to Vary a Premises Licence in respect of V Bar, 26 West Street, Congleton, CW12 1JR</b>

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### 1.0 Report Summary

- 1.1 The report provides details of an Application to vary a 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 to vary a Premises Licence by Mr Valentino Paolo Martone in respect of:

V Bar  
No 1 The Court Yard  
26 West Street  
Congleton  
CW12 1JR

- 2.2 The premises currently benefits from a Premises Licence and the current licence was issued on 14<sup>th</sup> June 2011 (appendix 1).
- 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 Congleton West

### **5.0 Local Ward Members**

- 5.1 Councillors: Gordon Baxendale, Ronald Domleo, David Topping

### **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 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.
- 6.3 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.
- 6.4 Consideration must also be given to the relevant sections of the Guidance issued under section 182 of the Licensing Act 2003.
- 6.5 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 35 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 35(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 conditions of the Licence as the Authority considers appropriate for the promotion of the Licensing Objectives
- (c) Reject the whole or part of the application

8.2 Members are reminded that should any conditions be added, they should be 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, 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, initially received on the 24<sup>th</sup> July 2014, is for the variation of a Premises Licence under section 34 of the Licensing Act 2003. Due to procedural defects the application was restarted on two occasions. The first defect related to an insufficient number of Notices advertising the application at the premises. The Second defect related to the advertising of the application in a local newspaper. The paper chosen by the applicant was deemed to be insufficient to meet the requirements of the relevant regulations due to the nature and timing of its publication.

10.2 The proposed variation is to increase the sale of alcohol and the playing of recorded music until 03:30 on Friday, Saturday and New Year's Eve.

10.3 The hours applied for are as follows:

### **Sale of Alcohol (for consumption on and off the premises)**

Friday and Saturday	09:00hrs to 03:30hrs
New Year's Eve	09:00hrs to 03:30hrs

### **Recorded Music (to take place both indoors and outdoors)**

Friday and Saturday	09:00hrs to 03:30hrs
New Year's Eve	09:00hrs to 03:30hrs

### **Hours the Premises is open to the Public**

Friday and Saturday	09:00hrs to 03:30hrs
New Year's Eve	09:00hrs to 03:30hrs

10.4 A copy of the application form is attached as Appendix 2. In this application the requested times relating to the Opening Hours of the Premises was

incorrectly amended to 20:00. The applicant has requested that this remain as 09:00. The application also provides additional information relating to the steps the Premises Licence Holder intends to take to promote the Licensing Objectives. If the application were to be granted these steps would be translated into conditions consistent with the Operating Schedule and would appear on the Licence.

## 10.5 Relevant Representations

### Responsible Authorities:

10.5.1 The Police Licensing Officer has agreed the following amendments to the applicant with the applicant:

- § Alcohol sales will cease at 02:30 each Friday and Saturday
- § The premises will close to the public and recorded music will cease at 03:00 each Friday and Saturday
- § Please remove the following sentence from section 15 'Licensable activities and late night refreshment until 3.30am

10.5.2 The Council's Environmental Protection Team, acting in its capacity as a Responsible Authority, has recommended that the application be approved with additional conditions. This representation is set out at appendix 3.

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

### Other Persons:

10.5.3 The Council has received 5 representations from other persons. Copies of these representations are attached as Appendix 4.

10.5.4 Copies of the Environmental Protection and other persons' representations were disseminated to the applicant to give the opportunity for the proposed additional conditions to be agreed to or for the application to be modified. No contact as has been received from the Premises Licence Holder.

## 11.0 Access to Information

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

Name: Mrs N Cadman  
Designation: Senior Licensing Officer  
Tel No: 01270 685957  
Email: nikki.cadman@cheshireeast.gov.uk

## APPENDICES

- Appendix 1 - Existing Premises Licence
- Appendix 2 - Application to vary a Premises Licence
- Appendix 3 - Responsible Authority Representations
- Appendix 4 - Representations from Other Persons
- Appendix 5 - Map of area

