

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING ACT SUB-COMMITTEE

Date of Meeting:	Monday 29th June 2015 at 13.15hrs
Report of:	Mrs N Cadman, Licensing Officer
Subject/Title:	Application for the review of a Premises Licence Bar 48, 48 Crewe Road, Alsager, ST7 2ET

1.0 Report Summary

- 1.1 The report provides details of an Application for the Review of a Premises Licence under section 51 of the Licensing Act 2003 and outlines the evidence presented by the parties in relation to the review.

2.0 Decision Requested

- 2.1 The Licensing Act Sub-Committee is requested to determine the Application for the Review of a Premises Licence by Sgt 3641 Lindsay Chamberlain of Police Eastern Partnerships in respect of:

Bar 48
48 Crewe Road
Alsager
ST7 2ET

- 2.2 The Licensing Act Sub-Committee is requested to consider the review application and any relevant representations and determine what steps, if any, it considers are appropriate to promote the Licensing Objectives.

- 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 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.

- 2.5 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 Alsager

5.0 Local Ward Members

- 5.1 Cllr Martin Deakin
Cllr Rod Fletcher
Cllr Derek Hough

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 This application for the review of a premises licence relates to all four Licensing Objectives. The Licensing Authority sets out at paragraphs 7 to 10 of its Statement of Licensing Policy how it will deal with representations under these objectives. The Statement of Licensing Policy also deals with issues of Anti-social behaviour at paragraph 6.
- 6.2.2 The Policy also deals with the reviews of licences at paragraph 17.
- 6.3 Members should provide reason(s) for any decision taken and should set out their 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 Sub-section 52(2) of the Licensing Act 2003 prescribes that before determining an application for review received in accordance with section 51, the Licensing Authority must hold a hearing to consider the review application and any relevant representations.
- 8.2 Sub-section 52(3) states that 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 appropriate for the

promotion of the Licensing Objectives. The steps set out within sub-section (4) are:

a) Modify the conditions of the licence

This could include either imposing further conditions on the licence or changing (for example, further restricting) the hours of certain licensable activities, where this is proportionate and relevant to the licensing objectives. This may also include a requirement that unregulated entertainment becomes regulated again between the hours of 8am and 11pm.

For this purpose, the conditions of the licence are modified if any of them are altered or omitted, or any new condition is added.

b) Exclude a licensable activity from the scope of the licence

The Sub-Committee may decide that it is proportionate and relevant to the Licensing Objectives to remove one or more of the licensable activities.

c) Remove the designated premises supervisor

d) Suspend the licence for a period not exceeding three months

e) Revoke the licence

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

8.3 By virtue of section 52(11) of the Licensing Act 2003, any decision of the Sub-Committee to take one or more of the steps set out above does not have effect:

(a) until the end of the period given for appealing against the decision or

(b) if the decision is appealed against, until the appeal is disposed of

8.4 Members are also reminded of the statutory obligation placed on the Local Authority under section 17 of the Crime and Disorder Act 1998 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 On the 6th May 2015 an application for a review of the Premises Licence relating to Bar 48, 48 Crewe Road, Alsager, ST7 2ET, was submitted by Sgt 3641 Lindsay Chamberlain of the Police Eastern Partnerships, Crewe Police Station. The grounds for review set out within the review application were; (1) the Prevention of Crime and Disorder, (2) Public Safety, (3) the Prevention of Public Nuisance and (4) the Protection of Children from Harm . A copy of the review application is appended to this report as Appendix 1.

- 10.2 The Premises Licence Holder and Designated Premises Supervisor named on the Premises Licence is Ms Mikala Howell. A copy of the Premises Licence is appended to this report as Appendix 2. Ms Mikala Howell has submitted a statement in relation to the application for review. A written submission has also been received from Gladstones Solicitors, acting on behalf of Ms Howell. Copies of these documents are attached to this report at Appendix 3.
- 10.3 Within the prescribed consultation period in relation to the review, the Licensing Authority has received representations from Environmental Health and Trading Standards acting as Responsible Authorities. Representations have also been received from other persons.
- 10.4 In reviewing the Premises Licence and making its decision, the Licensing Act Sub-Committee must have regard to the application and relevant representations. The Sub-Committee may take such of the steps referred to within sub-section 52(4) of the Licensing Act 2003 (if any) as it considers appropriate for the promotion of the Licensing Objectives.

10.5 Relevant Representations

Responsible Authorities:

- 10.6.1 The representation from the Environmental Health Officer is attached as Appendix 4 of this report.
- 10.6.2 The representation from the Trading Standards Officer is attached as Appendix 5 of this report.

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

Other Persons:

- 10.6.4 The Council has received a number of representations in support of the Review application, these are attached as Appendix 5 of this report.
- 10.6.5 The Council has received a number of representations in support of Bar 48, these are attached as Appendix 6 of this report.

11.0 Access to Information

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

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

APPENDICES

- Appendix 1 – Review application and accompanying documentation
- Appendix 2 - Existing Premises Licence Summary and Annex 2 conditions
- Appendix 3 - Statement of Ms Mikala Howell and Submission from Gladstones
- Appendix 4 - Representation from Environmental Health
- Appendix 5 - Representation from Trading Standards
- Appendix 6 - Representations received in support of the review application
- Appendix 7 - Representations received in support of Bar 48
- Appendix 8 - Plan of area