

REPORT TO: LICENSING ACT SUB-COMMITTEE

Date of Meeting:	2pm Tuesday 7 November 2017
Report of:	Council Chamber, Municipal Buildings, Crewe
Subject/Title:	Jennifer Knight, Licensing Officer
	Application for a review to the Premises Licence at
	White Horse Inn, 22 Pillory Street, Nantwich CW5 5BD

1.0 Report Summary

- 1.1 The report provides details of an Application for the Review of a Premise 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 Mr N Dodd, a local resident, in respect of:

White Horse Inn
22 Pillory Street
Nantwich
CW5 5BD

- 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

2.6 Members should also consider the following:

- The Local Authority's statutory responsibility under the Health and Social Care Act 2012 for the health of the population of Cheshire East
- Local Authority's statutory duty under the Crime and Disorder Act 1998 to have regard to the need to do all that it reasonably can to prevent crime and disorder, misuse of drugs and alcohol and reoffending in its area.

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

Nantwich South and Stapeley

5.0 Local Ward Members

Councillor Peter Groves
Councillor Andrew Martin

6.0 Policy Implications

The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003. Whilst having regard to the Statement as a whole and the general principles contained within, Members may wish to consider the following:

- This application for the review of a premises licence relates to the undermining of the prevention of public nuisance objective. The Council's policy deals with these matters at paragraph 9.
- Anti-social behaviour, which overlaps with the public nuisance objective, is also addressed within the Council's Policy at paragraph 6.
- The Policy also deals with the reviews of licences and enforcement matters at paragraph 17.

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.

7.0 Legal Implications

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.

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:

- 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.
- 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.
- Remove the designated premises supervisor
- Suspend the licence for a period not exceeding three months
- 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.

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

- 10.1 On the 13th September 2017 an application for a review of the Premises Licence was submitted by Mr N Dodd a resident of Pillory Street, Nantwich. The grounds for review set out within the review application were the Prevention of Public Nuisance. A copy of the review application is appended to this report as Appendix 1.
- 10.2 A copy of the Premises Licence setting out the premises licence holder, Designated premises supervisor and conditions etc. is appended to this report at Appendix 2.
- 10.3 Within the prescribed consultation period in relation to the review, the Licensing Authority has received representations from Responsible Authorities under the Act. Representations have also been received from other person(s) as defined within the legislation.
- 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 On the 30th June 2016 Mr Dodd applied to review the premises licence for this premises. Mr Dodd contented that the premises was undermining the Licensing Objectives for the following reason –
The premises are undermining the prevention of public nuisance licensing objective. The premises is causing a nuisance by allowing music to be heard outside the premises and by allowing groups of people to congregate outside of the premises into the early hours.

The review was supported by Cheshire East Environmental Health, Licensing, and four other persons. At the Hearing, after considering all the evidence and information before it, the Sub-Committee replaced the operating schedule conditions with a new operating schedule prepared on behalf of the premises licence holder. That operating schedule has been in place since the hearing and can be found on the premises licence at appendix 2. Members were of the opinion that the new operating schedule should reduce any undermining of the Licensing Objectives.

10.5 Relevant Representations

Responsible Authorities:

10.5.1 Representations were received from the following Responsible Authorities:

- Cheshire Police - Appendix 3
- Public Health – Appendix 4

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

Other Persons:

10.5.2 The Council also received eleven representations from other persons (appendix 5)

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 – Review Application Form

Appendix 2 – Premises Licence

Appendix 3 – Cheshire Police

Appendix 4 – Public Health

Appendix 5 – Other Persons Representations

Appendix 6 – Map of Premises