

Licensing Act Sub Committee

Date of Meeting: [Click to Enter Date of Destination Meeting.](#)

Report Title: Application to review a Premises Licence at Thirsty Beak Café Bar, Unit 5c, Dukes Court, Mill Street, Macclesfield, Cheshire, SK11 6NN

Senior Officer: Frank Jordan - Executive Director Places

1. Report Summary

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

2. Recommendations

- 2.1. The Licensing Act Sub-Committee is requested to determine the application for a review of the Premises Licence by Cheshire Police, in respect of:

Thirsty Beak Café Bar
Unit 5c Dukes Court
Mill Street
Macclesfield
SK11 6NN

- 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 the Licensing Authority, Members must seek to promote the Licensing Objectives. And where Members consider that 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 the application and the evidence presented by the parties in relation to the review.

2.5. Finally, Members are also reminded that in determining the application, consideration also needs to be given to:

- a) The rules of natural justice
- b) The provisions of the Human Rights Act 1998

3. 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, and provide the key reasons why the recommendation/s has been made. Link your reasons into appropriate council policies and corporate objectives.

4. Other Options Considered

4.1. Not applicable

5. Background

5.1. The application by Cheshire Police was received by the Licensing Authority and sent out for consultation on the 14th February 2020. The application is to review a Premises Licence under section 51 of the Licensing Act 2003.

5.2. The grounds for the review application are:

- Prevention of Crime and Disorder
- Public safety

The full details of the grounds for the review are set out in the application at **Appendix 1**.

5.3. 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**.

5.4. Responsible Authorities:

5.4.1. The Council's Environmental Protection team have not submitted a representation.

5.5. Other Persons:

5.5.1. The Council has received two representations from the public, which are set out at **Appendix 3**.

5.6. Under the Licensing Act 2003 (Hearings) Regulations 2005, a hearing to determine the application for review under section 52(2) of the Licensing Act 2003 must be commenced within twenty working days after the end of the period during which representation may be made.

5.7. In this case the statutory period for commencing the hearing expired on 13th April 2020. However, in accordance with Regulation 11 of the The Licensing Act (Hearings) Regulations 2003, Cheshire East Council took the decision to extend the time within which a hearing must be held. This decision was taken as a result of the COVID-19 pandemic and its affect on public health. In taking this decision, Cheshire East Council had regard to the guidance issued by Central Government and given the severity of the situation Cheshire East Council, as the Licensing Authority, considered that it was in the public interest to hold a hearing at a later date. A notice of hearing was issued in accordance with regulation 11(2) of the Licensing Act (Hearings) Regulation 2005.

5.8. A notice of hearing was sent to all parties on 24th March 2020.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. Subsection 52(2) of the Licensing Act 2003 prescribes that before determining an application for a review recieved in accordance with section 51, the Licensing Authority must hold a hearing to consider the review application and any relevent representations

6.1.2. Subsection 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:

- i. Modify the conditions of the licence. For this purpose, the conditions of the licence are modified if any of them are altered or omitted, or any new condition is added.
- ii. Exclude a licensable activity from the scope of the licence;
- iii. Remove the designated premises supervisor;
- iv. Suspend the licence for a period not exceeding three months;
- v. Revoke the licence.

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

6.1.4. 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.

6.1.5 Members are also reminded of the statutory obligation placed on the Local Authority under section 17 of the Crime and Disorder Act 1998 to exercise its various functions, doing all that it can to prevent Crime and disorder, and Anti-social Behaviour, behaviour adversely affecting the environment as well the misuse of drugs, alcohol and re-offending in the Local Environment.

6.2. Finance Implications

6.2.1. There are no financial implications.

6.3. Policy Implications

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

6.3.2. The Licensing Authority must also have due regard to the guidance issued under section 182 of the Licensing Act 2003.

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

6.4. Equality Implications

6.4.1. There are no direct equality implications

6.5. Human Resources Implications

6.5.1. There are no human resources implications

6.6. Risk Management Implications

6.7. The Licensing Sub-Committee will hear representations made on behalf of both the applicant and the 'relevant person' who has submitted their representation and will make a decision on the basis of the evidence presented to it. The Licensing Act 2003 makes provision for appeal to the Magistrates' Court of any decision made by the Licensing Authority.

6.8. Rural Communities Implications

6.8.1. There are no direct implications for rural communities.

6.9. Implications for Children & Young People/Cared for Children

6.9.1. There are no direct implications for children and young people.

6.10. Public Health Implications

6.10.1 There are no direct implications for public health.

6.11. Climate Change Implications

6.11.1. There are no direct implications for Climate Change.

7. Ward Members Affected

7.1. Macclesfield Central – Councillor Liz Braithwaite.

7.2. Macclesfield Central – Councillor Ashley Farrall.

8. Consultation & Engagement

8.1. In accordance with The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 the Council is required to advertise

the application, including the placing of notices at or near the premises subject of the review for not less than 28 days.

8.2. The reason for the placing of notices is to make members of the public aware of the Review. The notices must also state the grounds for the review in accordance with Regulation 39. The grounds for the review were summarised on the notice with the information taken from the review application form. Notices were displayed in accordance with this requirement. However, on the 9th March 2020, we had received notification that the notices had been removed entirely. This necessitated officers to redisplaying them.

8.3. Due to the removal of the notices during the consultation period the requirement to advertise the notices at the premises for no less than 28 consecutive days at the premises has not been fully complied with.

8.4. In addition to the notices at the premises, notices were also displayed at the Council's Westfields Offices and on the Council's website for the duration of the consultation period. Notices were displayed on blue A4 paper with size 16 font and followed the requirements in Regulation 39 on its content.

9. Access to Information

9.1. The background papers relating to this report can be made available by contacting the report writer.

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

Name: Nathan Murphy

Job Title: Acting Senior Licensing Administration Officer

Email: nathan.murphy@cheshireeast.gov.uk

Appendix 1 – Application

Appendix 2 – Premises Licence

Appendix 3 – Representations submitted from other persons

Appendix 4 – Plan of the Premises