

Licensing Act Sub-Committee

Date of Meeting:	3 rd October 2022
Report Title:	Application to review a Premises Licence – Cholmondeley Estate
Report of:	Jayne Traverse, Executive Director – Place
Report Reference No:	To be provided by Democratic Services
Ward(s) Affected:	Wrenbury

1. Purpose of Report

- 1.1. To allow Members of the Sub-Committee to determine an application to review a Premises Licence made under the Licensing Act 2003 for the following premises:

Cholmondeley Estate, Cholmondeley, SY14 8EZ

2. Executive Summary

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

3. Recommendations

- 3.1. The Licensing Act Sub-Committee is requested to consider the application and any relevant representations and determine what steps, if any, it considers are appropriate to promote the Licensing Objectives.
- 3.2. 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:
- The prevention of crime and disorder

- Public Safety
 - The prevention of public nuisance
 - The protection of children from harm
- 3.3.** 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 application.
- 3.4.** 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

4. Reasons for Recommendations

- 4.1.** 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.

5. Other Options Considered

- 5.1.** No other options have been considered. The Licensing Authority must determine such applications in the manner prescribed in the legislation.

6. Background

- 6.1.** On the 8th August 2022 the Licensing Authority received an application to review the premises licence from the Council's Environmental Protection Team. The application was sent out for consultation in the manner set out in paragraph 7.
- 6.2.** The grounds for the review application are the noise nuisance caused by an outdoor music event, Outlook Festival, held at the estate between 30th June 2022 and the 3rd July 2022. It is contended by the applicant that this noise nuisance undermined the Prevent of Public Nuisance Licensing Objective.
- 6.3.** The full grounds for the Review are set out in the application together with the supporting information provided. This information is set out at appendix A. In addition to the application form the Environmental Protection Team have provided a number of supporting documents:
- i. Appendix AA - A list of complaints made to the Outlook Festival (this information is redacted on the website because it contains personal information of complainants)
 - ii. Appendix AB - A further break down of some of the complaints contained in the log
 - iii. Appendix AC - Noise management report

iv. Appendix AD - Letter to Cholmondeley Estates following the event

- 6.4.** In addition to the application (where the Environmental Protection Officer includes evidence of complaints made to both them and the event organiser), a number of persons have also made relevant representations. These representations are set out at appendix B.
- 6.5.** Additionally, a relevant representation has been received from TLT Solicitors submitted on behalf of the organisers of the Outlook Festival (New Bohemia Music Group). This is set out at appendix C.
- 6.6.** Cheshire Police have made relevant representation and have suggested a number of additional conditions that they consider appropriate to promote the objectives taking into consideration that the type of events held at the premises may have changed. This representation is set out at appendix D.
- 6.7.** The Council's Public Health team also submitted a relevant representation. This is attached at appendix E.
- 6.8.** Immigration Enforcement (part of the Home Office) confirmed that they had no representation to make.
- 6.9.** No responses were received from any of the other Responsible Authorities.
- 6.10.** The current premises licence, which confirms the licensable activities, the hours for licensable activities, and any conditions attached to the licence is attached to the report at appendix F. At appendix G is the plan of the premises provided with the original application in 2006 and remains the current area for licensable activities. Due to the age and quality of the plan it will be necessary to have clearer paper copies available at the Hearing.
- 6.11.** In order to assist Members, we have included a map of the local area (appendix H) so that the premises can be seen in context. This is for information purposes and does not form the area for licensable activities. The dark gray shaded area represents the boundary of the Borough.
- 6.12. Information of Complaints made to the Licensing Team**
- 6.13.** The Licensing Team received some complaints directly following the Outlook event. As the complaints related to noise nuisance they were shared with our colleagues in Environmental Protection as the lead authority for noise complaints. Information was also provided to the complainants on how they might call a review of the licence.
- 6.14. History of the premises licence**

- 6.15.** The premises licence (number 413) was first granted by Crewe and Nantwich Borough Council in 2006. In accordance with the application the licence covered the full estate (approximately 7500 acres) and authorised licensable activities to take place on a 24 hour basis with a capacity limit of 9,999 people.
- 6.16.** The application was first made on the 21st March 2006 and the application followed the process required in the Licensing Act 2003 and the associated regulations. Cheshire Police confirmed that they had no objections. Additional conditions were proposed by the Environmental Protection Team, which were agreed with the applicant and attached to the licence. No other relevant representations were received. The licence was granted by the Licensing Officer on 7th July 2006 under delegated powers.
- 6.17.** On the 4th May 2012 a variation application was received by the Licensing Team. The application requested to change the capacity of the premises from 9,000 to 29,000 people. No other changes were requested. Cheshire Police confirmed that they had no objections. Additional conditions were proposed by the Environmental Protection Team, which were agreed with the applicant and attached to the licence. No other relevant representations were received. The licence was granted by the Licensing Officer on 2nd June 2012 under delegated powers.
- 6.18.** A further application to vary the licence was received on the 23rd January 2019. This application sought to amend the conditions of the licence that limited outdoor events and remove some conditions that were no longer felt by the applicant to be appropriate (eg requirement for a burglar alarm etc). The application proceeded in the same way as the previous applications, the police proposed amended conditions that were agreed and the Environmental Protection Team confirmed that they had no objection. No other relevant representations were received. The licence was issued in accordance with the application and agreed amendments on 26th February 2019.
- 6.19.** During the life of the licence, there have been various changes to the designated premises supervisor. The premises licence holder has always been Cholmondeley Estates.

7. Consultation and Engagement

- 7.1.** Once an application is received, this triggers a period of not less than 28 days when the application must be advertised. This is to allow Responsible Authorities and other persons to provide any relevant representations.
- 7.2.** In accordance with the legislation, review applications must be advertised in a number of ways.

- 7.3.** The application must be sent to all the Responsible Authorities, as set out in the legislation. The application was email to these parties on the 8th August 2022.
- 7.4.** The application must be given to the premises licence holder. A copy of the application and supporting information was hand delivered to the Estate Office on 8th August 2022.
- 7.5.** Notices (10 in total) on blue paper were put up at various locations around the premises by a Licensing Enforcement Officer on the 8th August 2022.
- 7.6.** Notice of the Review was also placed on the Council's website.
- 7.7.** On the 30th August 2022, Licensing Officers visited the premises and confirmed that the notices were still in place.

8. Implications

8.1. Legal

- 8.1.1.** The Sub Committee must determine this application in accordance with section 51 of the Licensing Act 2003. To do so otherwise would render its determination unlawful and invalid.
- 8.1.2.** In accordance with the provisions of section 52 (3) of the Licensing Act 2003 the Licensing Authority Sub Committee must, having regard to the representations, made in this application take such steps (if any) as it considers appropriate for the promotion of the licensing objectives.
- 8.1.3.** Section 52 (4) provides that the authority may:
- a) modify the conditions of the licence
 - b) exclude a licensable activity from the scope of the licence
 - c) remove the designated premises supervisor
 - d) suspend the licence for a period not exceeding three months
 - e) revoke the licence
- and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added
- 8.1.4.** Members are reminded that should any conditions be added, they should be practical, enforceable and appropriate to promote the Licensing Objectives.
- 8.1.5.** Members are also reminded of the statutory obligation placed on the Local Authority under section 17 of the Crime and Disorder Act 1998 to 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 reoffending.

- 8.1.6. Members must give reasons for their determination and notice of it must be communicated to the parties to this hearing. If Members depart from the Statutory Guidance or the Council's Statement of Licensing Policy, then their decision notice must set out the reasons for doing so.

8.2. Finance

- 8.2.1. There are no financial implications

8.3. Policy

- 8.3.1. The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003.
- 8.3.2. The Licensing Authority must also have due regard to the guidance issued under section 182 of the Licensing Act 2003.
- 8.3.3. Both the Council's Statement of Licensing Policy and the 182 Guidance have sections dedicated to the Prevent of Public Nuisance objective and the Review process. While careful attention should be given to those sections, it is important to fully take into consideration both documents.
- 8.3.4. 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.

8.4. Equality

- 8.4.1. There are no equality implications

8.5. Human Resources

- 8.5.1. There are no human resources implications

8.6. Risk Management

- 8.6.1. The Licensing Sub-Committee will hear representations made on behalf of both the applicant, the premises licence holder, and 'relevant persons' who have submitted their representation. The Sub-Committee 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

8.7. Rural Communities

- 8.7.1. There are no implications for rural communities

8.8. Children and Young People/Cared for Children

- 8.8.1. There are no implications for children and young people

8.9. Public Health

- 8.9.1. There are no direct implications for public health

8.10. Climate Change

8.10.1. There are no implications for climate change

Access to Information	
Contact Officer:	Jennifer Rowney, Senior Licensing Officer Licensing@Cheshireeast.gov.uk 0300 123 5015
Appendices:	Appendix A to AD - Review application and supporting information Appendix B - Relevant representations from other persons Appendix C - Representation made on behalf of the organisers of the Outlook Festival Appendix D - Relevant Representations from Cheshire Police Appendix E – Relevant Representation from Public Health Appendix F - Extant Premises Licence 413 Appendix G - Plan of the licensed premises (annex 4 of the licence) Appendix H - Location Map
Background Papers:	Statutory Guidance issued under section 182 of the Licensing Act 2003 Council's Statement of Licensing Policy published under section 5 of the Licensing Act 2003 Licensing Act 2003 The Licensing Act 2003 (Hearings) Regulations 2005