

Licensing Act Sub-Committee

Date of Meeting:	5 th October 2022
Report Title:	Application to review a Premises Licence – Cheshire Fest @ The Lambing Shed
Report of:	Jayne Traverse, Executive Director – Place
Ward(s) Affected:	Knutsford

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:

Cheshire Fest @ The Lambing Shed, Knutsford, WA16 8RB

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 18th August 2022 the Licensing Authority received an application to review the premises licence from local residents. 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 nuisance caused by an outdoor music festival held at the premises between 2nd June 2022 and 5th June 2022. It is contended by the applicant that this 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 1.
- 6.4.** A number of persons have also made relevant representations during the consultation. These representations are set out at appendix 2.
- 6.5.** The Councils Environmental Health Team have provided comments, which are set out at appendix 3. The Home Office have confirmed that they have no representation to make. No responses were received from any other responsible authorities.

- 6.6.** 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 4. The decision notice following the Hearing for the grant of the licence is attached at appendix 5.
- 6.7.** In order to assist Members, we have included a map of the local area (appendix 6) 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.
- 6.8. Information of Complaints made to the Licensing Team**
- 6.9.** The Licensing Team received a number of complaints directly following the festival. Information was provided to the complainants on how they might call a review of the licence.
- 6.10. History of the premises licence**
- 6.11.** The premises licence (number PREM1403) was first granted following a Hearing of the Licensing Act Sub-Committee in May 2022. The application was determined at a Hearing because of relevant representations received.

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 18th August 2022.
- 7.4.** The application must be given to the premises licence holder. A copy of the application and supporting information was also email out on the 18th August 2022.
- 7.5.** Notices on blue paper were put up at various locations around the premises by a Licensing Enforcement Officer on the 18th August 2022.
- 7.6.** Notice of the Review was also placed on the Council's website.
- 7.7.** On the 22nd August 2022, 5th September 2022, and 8th September 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 1 - Review application and supporting information Appendix 2 - Relevant representations from other persons Appendix 3 - Relevant Representations from Environmental Health Appendix 4 - Extant Premises Licence Appendix 5 – Decision Notice Appendix 6 - Location Map

Background Papers:	<u>Statutory Guidance issued under section 182 of the Licensing Act 2003</u> <u>Council's Statement of Licensing Policy published under section 5 of the Licensing Act 2003</u> <u>Licensing Act 2003</u> <u>The Licensing Act 2003 (Hearings) Regulations 2005</u> <u>Licensing Act Sub-Committee 14th December 2021</u>
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