

LICENSING ACT 2003:
Application for a Premises Licence to be granted at Crown & Conspirator, 26
Bramhall Lane South, SK7 1AF

Report of the Corporate Director for Place Management & Regeneration

1. PURPOSE OF REPORT

- 1.1. For Members to consider an application from Cheshire Pub Company Ltd for a premises licence to be granted under the Licensing Act 2003 at 26 Bramhall Lane South, Bramhall, SK7 1AF.

2. DETAILS

- 2.1. Applicant: Cheshire Pub Company Ltd.
Address: 26 Bramhall Lane South, Bramhall, SK7 1AF.
Designated Premises Supervisor: Matthew Parker
Name of Premises: Crown & Conspirator.
Address of Premises: 26 Bramhall Lane South, Bramhall, SK7 1AF.
Situation: A location map is attached as **Appendix B**

3. BACKGROUND

- 3.1. On 20 June 2022, Cheshire Pub Company Ltd made an application for a premises licence to be granted at 26 Bramhall Lane South, Bramhall, SK7 1AF.

- 3.2. The application applied for the following activities:

- Recorded music (indoors) Friday and Saturday 23:00hrs – 02:00hrs.
- Late Night Refreshments (indoors) Friday and Saturday 23:00hrs – 02:00hrs.
- Supply of alcohol (on the premises) Sunday to Thursday 12:00hrs – 23:00hrs, Friday and Saturday 12:00hrs – 02:00hrs.

A copy of the application and plan is attached at **Appendix A1**. A copy of the DPS consent form is attached at **Appendix A2**. Personal data has been redacted.

The opening times proposed are Sunday to Thursday 12:00hrs – 23:00hrs, Friday and Saturday 12:00hrs – 02:00hrs.

- 3.3. In addition to the mandatory licence conditions the applicant has proposed the following further conditions to be attached to the premises licence. The proposed conditions are detailed in respect of each of the 4 licensing objectives:

- CCTV cameras are located within the premises to cover all public areas including all entrances and exits. The system records clear images permitting the identification of individuals. All recorded footage must be securely retained for a minimum of 28 days. The CCTV system operates at all times while the premises are open for licensable activities

- Sia Door-Supervisors will be utilised on Friday and Saturday evenings when the premise is open, between the times of 20.00 and 01.00 as a minimum. Door-supervisors will remain on-site until the last customer has left the premise. A record will be kept of all Door-supervisors utilised at the premise, which will detail the Date, Times, Name and Sia Badge Number. This record shall be made available to the Licensing Authority, Police Constable or other authorised person upon request
- Operate a Challenge 25 policy
- Live and/or Recorded music emanating from the premises shall not be clearly audible at the boundary of the nearest residential property.
- All external windows and doors shall be closed whilst live or recorded music is taking place, except for normal access and egress.

3.4. The application was advertised on the boundary of the premises for 28 days from the 20 June 2022. A copy of the notice was published in the Stockport Express on 29th June 2022.

3.5. There has been 1 relevant representation to this application, relating to the Prevention of Public Nuisance licensing objective. The representation is from a Ward Councillor. The representation is concerned with potential noise emanating from the premises, from customers and vehicles. The representation also highlights that there is a planning condition in force, restricting its hours of operation. The representation is attached at **Appendix C1**.

3.6. The planning condition in effect for these premises is as follows:

Condition

The use hereby permitted shall not be open to customers outside the following times 01.00am and 09.00am on any day.

Reason

In order to minimise the impact of the proposed use upon the amenities of the residents of nearby properties in accordance with Policies PSD2.2 "Service Uses In The Town Centre, District and Large Local Centres" and SE1.1 " Control Of Food And Drink Outlets" of the Stockport Unitary Development Plan Review.

4. GUIDELINES

4.1 Section 16 of the Licensing Act 2003 states that the following persons may apply for a premises licence –

- (a) a person who carries on, or proposes to carry on, a business which involves the use of the premises for the licensable activities to which the application relates,
- (b) a person who makes the application pursuant to—
 - (i) any statutory function discharged by that person which relates to those licensable activities, or
 - (ii) any function discharged by that person by virtue of Her Majesty's prerogative,
- (c) a recognised club,
- (d) a charity,
- (e) the proprietor of an educational institution,
- (f) a health service body,

- (g) a person who is registered under Part 2 of the Care Standards Act 2000 (c. 14) in respect of an independent hospital in Wales,
- (ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England,
- (h) the chief officer of police of a police force in England and Wales,
- (i) a person of such other description as may be prescribed.

4.2 Section 18(3) of the Act states that, where relevant representations are made, the authority must, having regard to the representations made, take such steps as it considers necessary for the promotion of the licensing objectives. The steps are:

(a) to grant the licence subject to

(i) such conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and

(ii) any condition which must under section 19, 20 or 21 be included in the licence;

(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;

(c) to refuse to specify a person in the licence as the premises supervisor;

(d) to reject the application.

4.3 The Statutory Guidance issued under section 182 of the Licensing Act 2003 was amended to reflect changes made to the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2012 and was most recently amended in April 2018. This guidance gives the following advice on the issues raised in the representation:

4.3.1 In relation to the prevention of public nuisance licensing objective, paragraph 2.15 states that the 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

4.3.2. Paragraph 2.16 states that public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

4.3.3 Paragraph 2.17 states that conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation

of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

- 4.3.4 Paragraph 2.18 states that as with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 4.3.5 Paragraph 2.19 states that where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11pm and 8am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 4.3.6 Paragraph 2.20 states that measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 4.4. Paragraph 10.10 states that the 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.
- 4.5 The Licensing Act section 182 statutory guidance also makes reference to planning and in particular paragraph 14.64 states The (councils) statement of licensing policy should indicate that planning permission, building control approval and licensing

regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa. However, as set out in chapter 9, licensing committees and officers should consider discussions with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

- 4.6 Paragraph 14.65 states that there are circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by Licensing Committees, where appropriate, providing regular reports to the planning committee.

5 OPTIONS

Following the consideration of the application the sub committee has the following options

- To grant the application as applied for
- To grant the application subject to any conditions it considers appropriate for the promotion of the licensing objectives
- To grant the licence but exclude from the scope of the licence any of the licensable activities to which the application relates – based on the failure to promote the licensing objectives
- To grant the licence but amend the hours of any licensable activities to which the application relates – based on the failure to promote the licensing objectives
- To refuse to specify the person named as the designated premises supervisor
- To reject the application

6 RECOMMENDATION

6.1 The Committee is asked to determine the application for a Premises Licence by Cheshire Pub Company Ltd in respect of 26 Bramhall Lane South, Bramhall, SK7 1AF.

6.2 Full reasons should be given for the decision reached to inform the formal decision notice which must be sent to all parties following the meeting.

BACKGROUND PAPERS

Licensing Act 2003

Statutory Guidance to the Licensing Act 2003, as revised, April 2018.

Stockport's Licensing Policy, 2021 - 2026

Anyone wishing to inspect the above background papers or requiring further information should contact licensing@stockport.gov.uk.

