

REPORT: Regulatory Committee

DATE: 18th October 2012

REPORTING OFFICER: Chief Executive

SUBJECT: Application to vary a premises Licence – The Establishment Old Town Hall Victoria Square Widnes

WARDS: Riverside

1. PURPOSE OF REPORT

To hold a hearing to assess relevant representations made in response to an application to vary a premises licence in respect of The Establishment Old Town Hall Victoria Square Widnes.

2. RECOMMENDATION: That the Committee considers the relevant representations and makes a determination on the application.

3. SUPPORTING INFORMATION

- 3.1** An application has been made under section 34 Licensing Act 2003 (“the 2003 Act”)
- 3.2** This hearing is held in accordance with the 2003 Act and the Licensing Act 2003 (Hearings) Regulations 2005.
- 3.3** The procedure to be followed has been circulated to all parties and will be repeated at the beginning of the hearing.
- 3.4** The hearing is solely concerned with those aspects of the application, which have been the subject of relevant representations as defined in the 2003 Act.

4 THE APPLICATION

- 4.1** Stephen James Lawler has applied to vary a premises licence in respect of The Establishment Old Town Hall Victoria Square Widnes
- 4.2** Members are alerted to the somewhat confusing numbering adopted in the application which is further compounded by the number system used by Cheshire Constabulary. The application comprises six elements but the Applicant has listed these as 1 to 7 but missed out number 3. The representations by Cheshire Constabulary are numbered 1 to 5 and do not mirror the Applicant’s number System. To avoid as much confusion as possible paragraph 4.3 below lists the elements of the application in a more logical sequence and Appendix 1 compares the various number systems used.
- 4.3** The variation application relates to the following:-

1 To vary the existing hours for:-

**Categories B – Films, E – Live Music, F – Recorded Music,
G – Performance of Dance, I – Making Music, J – Dancing
and K – Similar to I or J**

From

Monday and Tuesday 10.00 to 01.30
Wednesday 10.00 to 02.30
Thursday 10.00 to 03.00
Friday and Saturday 10.00 to 03.30
Sunday 10.00 to 02.30

To

Monday and Tuesday 10.00 to 01.30
Wednesday 10.00 to 02.30
Thursday 10.00 to **03.30**
Friday ` 10.00 to 03.30
Saturday 10.00 to **04.30**
Sunday 10.00 to **03.30**

Category L – Late Night Refreshment

From

Monday and Tuesday 23.00 to 01.30
Wednesday 23.00 to 02.30
Thursday 23.00 to 03.00
Friday and Saturday 23.00 to 03.30
Sunday 23.00 to 02.30

To

Monday and Tuesday 23.00 to 01.30
Wednesday 23.00 to 02.30
Thursday 23.00 to **03.30**
Friday ` 23.00 to 03.30
Saturday 23.00 to **04.30**
Sunday 23.00 to **03.30**

Category M – Sale of Alcohol

From

Monday and Tuesday 10.00 to 02.00
Wednesday 10.00 to 03.00
Thursday 10.00 to 03.00
Friday 10.00 to 03.30
Saturday 10.00 to 03.30
Sunday 10.00 to 02.30

To

Monday and Tuesday 10.00 to 01.30
Wednesday 10.00 to 02.30
Thursday 10.00 to **03.30**
Friday ` 10.00 to 03.30

Saturday 10.00 to **04.30**
Sunday 10.00 to **03.30**

Category O – Hours Premises are open to the public

From

Monday and Tuesday 10.00 to 03.00
Wednesday 10.00 to 03.30
Thursday 10.00 to 03.30
Friday 10.00 to 04.00
Saturday 10.00 to 04.00
Sunday 10.00 to 03.00

To

Monday and Tuesday 10.00 to 03.00
Wednesday 10.00 to 03.30
Thursday 10.00 to **04.00**
Friday 10.00 to 04.00
Saturday 10.00 to **05.00**
Sunday 10.00 to **04.00**

- 2 To reduce the seating ratio from 40% to 30%
- 3 To remove the following conditions
 - **CCTV Suite**
“On Fridays, Saturdays and Sundays when additional hours are in operation, the Licence Holders shall ensure that the CCTV suite located at the entrance to the premises is staffed from 23.00 hours”
 - **Table meal/waiter service area**
“In the ground floor areas marked as Restaurant areas on the plan, alcohol shall only be served in conjunction with and ancillary to a seated table meal and shall be supplied by waiter/waitress service” .
- 4 To apply for one additional hour on all licensable activities for the beginning of British Summertime
- 5 To apply for alterations to the layout of the premises

5 RELEVANT REPRESENTATIONS

5.1 RESPONSIBLE AUTHORITIES

Cheshire Constabulary

5.1.1 The representations made by Cheshire Constabulary are set out at Appendix 2.

5.2 ANY OTHER PERSON

5.2.1 No other representations have been received.

6 OPTIONS

6.1 The Committee has the following options under section 34 of the 2003 Act:

6.1.1 It must Grant the application (where properly made) unless it considers that for the promotion of the licensing objectives it considers it necessary to take any of the following steps, namely -

6.1.2 Impose relevant conditions on the licence;

6.1.3 Reject the whole or part of the application.

6.2 The Committee must act with a view to promoting the licensing objectives, namely:

(a) the prevention of crime and disorder;

(b) public safety;

(c) the prevention of public nuisance; and

(d) the protection of children from harm.

The Committee must also have regard to-

(a) the Council's Statement of Licensing Policy, and

(b) the Statutory Guidance issued by the Secretary of State

7 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
Application Documents	Legal Services	John Tully/Kay Cleary

APPENDIX 1

Variation requested	Application number as set out in this report	Application number used by Applicant	Representation number used by Cheshire Police
To vary existing hours for all named activities	1	1	5
To apply for an extension to the existing opening hours	1	2	5
To reduce the seating ratio from 40% to 30%	2	4	3
To remove conditions C11 Table meal/waiter service area and F7 CCTV Suite	3	5	1 and 2
Additional hour for British summertime	4	6	4
Alterations to the layout of the premises	5	7	No comment

APPENDIX 2

**HALTON BOROUGH COUNCIL
Representation Form.**

Responsible Authority. Please delete as applicable.

Police

Your Name	Paul Draycott
Job Title	Area Licensing Officer
Postal and email address	Widnes Police Station Kingsway Widnes WA8 7QJ paul.draycott@cheshire.pnn.police.uk Halton.vr.licensing@cheshire.pnn.police.uk
Contact telephone / fax number	(t) 01606 363771 (f) 01606 364726

Name of the premises you are making a representation about.	The Establishment
Address of the premises you are making a representation about.	Victoria Square Widnes

Which of the four licensing Objectives does your representation relate to? Please state yes or no.	Yes Or No	Please detail the evidence supporting your representation. Or the reason for your representation. Please use separate sheets if necessary
The Prevention of harm to children		
To prevent Public Nuisance		
To prevent crime and disorder	Yes	See below comments:
Public Safety		

Suggested conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Sub Committee to take into account. Please use separate sheets where necessary and refer to checklist.	
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N.B If you do make a representation you will be expected to attend the Licensing Sub Committee and any subsequent appeal proceeding.

Signed: PT Draycott

Date: 7th August 2012

Comments:

The application submitted covers a number of areas:

1. The removal of the requirement for the CCTV to be monitored whilst the premises are open on Friday, Saturday and Sundays nights.
2. The removal of the 'restaurant' conditions in one area requirement. (waiter/waitress service)
3. The reduction of the requirement for 40% of the capacity to have seating to 30%
4. To include a condition to address the annual Summertime hour 'loss' when the clock goes forward
5. To extend the hours on Thursday, Saturday and Sunday nights

Condition 1:

This condition was included in the original licence application as a 'voluntary' condition by the applicant. He therefore must have felt that it was a reasonable and proportional condition to promote the Licensing Objectives.

The current CCTV system also covers parts of the toilets to address the issue of drug dealing/taking in that area. The evidence of detections¹ by the door staff indicates that there is a problem with customers using drugs on the premises and that the management are taking active steps to address the problem in that since January 2012 there have been a number of people detained by the door staff in the toilets in possession of drugs; therefore the police believe that this is still a necessary condition on the premises licence.

As these detentions clearly show there is a problem of drug taking in the premises and that the use of CCTV is helping to address that problem, therefore we feel that the condition should be retained. However the police accept that these incidents have taken place after 12.30am and to ensure that any conditions attached to the premises licence are proportionate suggest that the commencement hour for the condition is amended to start at 12.30am rather than from 11pm.

Condition 2:

This condition relates to an area in one corner of the venue which currently has 'restaurant' conditions attached to it. The application would remove the requirement for the provision of food and waiter/waitress service with alcohol in this area. The removal of the condition would allow the use of this area as a function room or small party area and extend the hours that the applicant can profitably use the building as it will be screened off from the big room with

¹ There have been 7 recorded occasions when the door staff have detained customers for taking drugs in the toilets since January 2012.

doors and make the room more 'customer friendly'. There are no police objections to this suggested amendment.

Condition 3:

The premises currently has fixed seating for approximately 220 customers, the rest being made up of stools and chairs. The police would not object to the reduction from 40% to 30% provided that the current level of fixed seating remains the same. Seating is an important way of managing customers in that having comfortable seating encourages their use and seated customers tend to behave better than customers who are just standing and drinking as experience shows that it allows better supervision, less likelihood of confrontation and therefore promotes a safer atmosphere within the premises.

Condition 4:

This is a standard condition on all late licences and was probably missed on the original application by an oversight. There are no police objections to the condition be added to the premises licence.

Condition 5:

This is the most contentious part of the variation application and the one area that the police have major concerns about. The list of incidents that have been recorded at the premises clearly indicates that the management are not currently coping with their existing hours in terms of the level of crime and disorder that can be directly attributed to the premises. The Police are concerned that any further regular extension of hours would create even further problems of crime and disorder at the premises.

In all the incidents recorded since July 2011 it appears that the management have been cooperative with the police and even proactive in detaining drug takers and ejecting people who are drunk, however it is interesting that all 7 detentions for possession of drugs have taken place in 2012, there were none in the period from July to December 2011.

Perhaps the best argument is to remind the committee that they were the ones who set the current hours and that there is nothing in this application that would indicate that the applicant has done anything to promote the Licensing Objectives since then.

The Police are not seeking to reduce the applicant's existing hours or to restrict his operation in any way, in fact we are acceding to most of the amendments requested, but there is certainly nothing that would support this application to extend the hours in the present circumstances.

There are two conditions attached to the premises licence that are germane:

Condition F9:

1. *The licence holder shall ensure that customers are continually monitored for signs of aggression/temper/argument so that situations are defused before they get out of hand.*
2. *The licence holder shall ensure that if patrons are ejected they must be monitored to ensure that violent behaviour does not continue immediately outside. If necessary the licence holder shall ensure that the police are informed at an early stage.*

Condition F10:

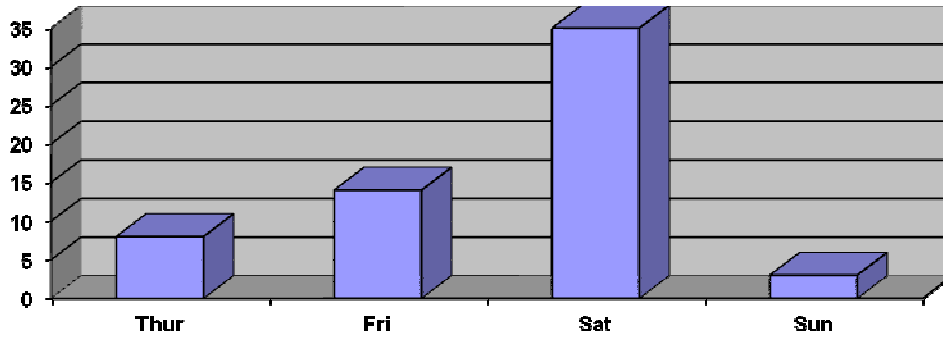
- 1 *The licence holder shall ensure that bar staff/door staff shall be attentive as to how intoxicated customers are becoming. If bar staff detect such a matter then door staff shall be informed.*
- 2 *The licence holder shall ensure that Notices are displayed in bar area to this effect.*
- 3 *The licence holder shall ensure that if it is believed that a customer is drunk then further service shall be refused*
- 4 *The licence holder shall ensure that door staff shall refuse entry to all customers who appear drunk*

These conditions, if they are being applied should minimise the potential for drunkenness and violence inside the premises. It is clear from the level of incidents and the 'Golden Thread' of drunkenness being a significant contributory factor that they are not being enforced by the management. The bar staff should have had the necessary initial training and follow-up regular training to ensure that they spot customers getting intoxicated and the door staff should be monitoring customers for signs of intoxication and aggression much better than they currently appear to.

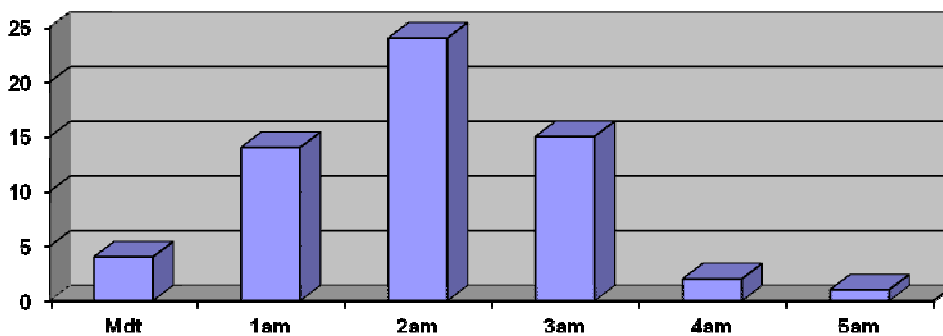
It is interesting to look at the below tables showing the hours of incidents and the days when they have occurred, they clearly show the spikes of maximum problems in the premises.

Establishment - Incidents Requiring Police Attendance from July 2011 to August 2012

Thursday	Friday	Saturday	Sunday
8	14	35	3



Mdt – 1am	1am – 2am	2am -3am	3am - 4am	4am – 5am	5am – 6am
4	14	24	15	2	1



The current hours were imposed by the Licensing Committee at the last hearing and the level of incidents recorded does not warrant the application being granted past the existing hours.

It is also useful to look at the comparator figures for incidents attached to those premises that operate with similar hours and style of operation in the vicinity:²

Similar Style Premises in the Vicinity - Total Number of Incidents from July 2011 to August 2012

Premises	Total Incidents	Premises Capacity	Hours (Alcohol) Fri/Sat	Hours (Close)
BB's	3	200	3.00am	4.00am
Beat	5	500	3.00am	3.30am
Cornerhouse	2	350	3.00am	3.30am
Establishment	60	800	3.30am	4.00am

² The incidents recorded against each premises have been collated using exactly the same criteria as those for The Establishment i.e. Only those incidents, positive, neutral or negative that can be directly related to that premises have been included.

Why do these premises have such a disparate level of incidents, even if all the incidents across these premises are added together they still only add up to one sixth of those recorded as being directly linked to the Establishment.

The Police therefore ask that the final variation request to extend the current hours is refused on this occasion.