

Licensing Act Sub-Committee

Agenda

Date: Thursday, 7th April, 2011
Time: 9.30 am
Venue: Council Chamber - Town Hall, Macclesfield, SK10 1DX

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Appointment of Chairman**

To appoint a Chairman for the meeting.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests and for Members to declare if they have pre-determined any item on the agenda.

3. **Application for a Premises Licence - Gawsworth Community Shop, 2-4 Longbutts Lane, Gawsworth, Macclesfield SK11 9QU (Pages 5 - 12)**

To consider an application for a Premises Licence for Gawsworth Community Shop, 2-4 Longbutts Lane, Gawsworth, Macclesfield.

PART 2 – THERE ARE NO PART 2 ITEMS

For requests for further information

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CHESHIRE EAST COUNCIL

PROCEDURE FOR HEARINGS – LICENSING ACT 2003

The Licensing Committee

The full Licensing Committee consists of fifteen elected Members of the Council. From this full Committee will be drawn sub-committees of three members to deal with licensing functions under the Licensing Act 2003. The Chairman and Vice Chairman of the Licensing Committee shall have the discretion to refer a matter up to a hearing of the full Licensing Committee.

Officers at Hearings

- **The Committee Officer** introduces all parties and records the proceedings
- **The Legal Adviser** provides independent advice to the Members on legal matters and procedure.
- **The Licensing Officer** will introduce the matter and outline the application; the officer will also answer any questions Members may have.

PROCEDURE

NOTE: If the Sub-Committee has not already elected a Chairman, that will be the first item of business.

1	Chairman	The Chairman will: (i) call the matter to be considered; (ii) call for any declarations of interest; (iii) ask all parties to introduce themselves; (iv) summarise the procedure to be followed at the hearing; (v) will consider any request made by a party for another person to appear at the hearing; (v) will advise the parties of any maximum period of time in which it has to present its case (if a maximum is imposed this shall be equal for all parties).
2	Licensing Officer	Will introduce and summarise the application, highlighting areas of contention or dispute.
3	Committee Members	May ask questions of the Licensing Officer
4	Applicant	Will present his/her case, calling witnesses, as appropriate. <i>(If necessary, applicant will produce any notices required by law. Legal Adviser will draw attention to this if required.)</i>
5	Responsible Authorities (who have made representations)	Each in turn may ask <u>questions</u> of the applicant, by way of clarification.

6	Local residents (ie. defined as “interested parties”)	To be invited to ask <u>questions</u> of the applicant, by way of clarification. <i>It is normal practice for a spokesperson only to speak on behalf of a group of residents.</i>
7	Committee Members	Each in turn may ask <u>questions</u> of the applicant.
8	Applicant	May make a <u>statement</u> or ask his witnesses to clarify any matters which he feels are unclear, or may have been misunderstood.
9	Responsible Authorities	Will make their representations.
10	Applicant	Or his representative or witnesses to ask <u>questions</u> of Responsible Authorities represented at the meeting, by way of clarification.
11	Local residents (ie. defined as “interested parties”)	May ask <u>questions</u> of the Responsible Authorities represented at the meeting, by way of clarification. (Note: This is not the point at which local residents should be stating their objections.)
12	Committee Members	May ask <u>questions</u> of the Responsible Authorities represented at the meeting
13	Local residents (ie. defined as “interested parties”)	The local residents who are objecting to the application will be invited <u>to make observations on the application</u> and present the bases of their objections.
15	Applicant	Or his representative or witnesses may ask <u>questions</u> of the Local Residents, by way of clarification.
16	Committee Members	May ask <u>questions</u> of the Local Residents.
17	Chairman	To invite both Responsible Authorities and Local Residents to make their closing addresses.
18	Applicant	Or his representative will <u>briefly summarise the application</u> and comment on the observations and any suggested conditions.
19	Committee	<u>Will retire</u> to consider the application. The Committee may request the Legal Advisor to advise on legal issues.
20	Committee	Will return to <u>give its decision</u> , with reasons, which will be announced by the Chairman and subsequently confirmed in writing to the applicant and to all the parties that made representations.

		In cases where a decision cannot be given at the end of the hearing, parties will be advised of the decision within five working days.
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Notes

1. The hearing shall normally be held in public. There may be occasions on which the Committee find it necessary to exclude members of the press and public; any such decision will be taken on the basis that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public.
2. The Chairman may require any person behaving in a disruptive manner to leave the hearing and may (a) refuse to permit that person to return, or (b) permit him/her to return only on such conditions as the authority may specify, but any such person may submit in writing any information which they would have been entitled to provide orally if they had not been required to leave.
3. Prior to the hearing each party shall have given notification and served documentation (eg statements of witnesses or reports of experts) as required. Late representations and evidence will only be considered with the agreement of all parties.
4. Anyone entitled to be heard may be represented by any person, whether or not that person is legally qualified.
5. Hearsay will be permitted but the Sub-Committee will be reminded to give it appropriate weight.
6. Due note shall be taken of the provisions of the Hearings Regulations 2005.
7. The Chair may, in the interests of expediency or convenience of the parties, vary the procedure from time to time, provided notice is given to the parties and the rules of natural justice are observed.

SUMMARY OF PROCEDURE

- 1 Chairman appointed (if this has not been done previously).
- 2 Chairman to call for declarations of interest and request that all parties introduce themselves.
- 3 Chairman summarises the procedure for the hearing
- 4 The Licensing Officer summarises the application
- 5 Applicant to present his/her case.
- 6 Applicant to be questioned by all parties (to clarify points only) following which, he/she can clarify any other matters which he/she feels may have been misunderstood when the application was presented.
- 7 Applicant to be questioned by the Committee.
- 8 Responsible Authorities to make their representations following which they can be questioned by all parties by way of clarification.
- 9 **Local residents** (defined as interested parties) will be invited to present the bases of their objections, following which they can be questioned by all parties by way of clarification.
- 10 The applicant will be invited to sum up his/her case
- 11 Committee/Sub-Committee withdraws to make its decision
- 12 Committee/Sub-Committee returns to announce its decision to all present.

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING ACT SUB-COMMITTEE

Date of Meeting:	Thursday 7th April 2011 at 09.30am
Report of:	Mrs N Cadman, Licensing Officer
Subject/Title:	Application for a Premises Licence Gawsworth Community Shop, 2-4 Longbutts Lane, Gawsworth, Macclesfield, SK11 9QU

1.0 Report Summary

- 1.1 The report provides details of an application for a premises licence together with information as to representations received in relation to the application.

2.0 Recommendations

The Licensing Act Sub-Committee is requested to determine the application for a Premises Licence by Gawsworth Community Shop Ltd in respect of Gawsworth Community Shop, 2-4 Longbutts Lane, Gawsworth, Macclesfield.

3.0 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.

4.0 Wards Affected

- 4.1 Macclesfield Forest Ward

5.0 Local Ward Members

Cllr M Asquith
Cllr H Gaddum
Cllr L Smetham

6.0 Policy Implications

- 6.1 The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003 and Guidance issued under section 182 of the Act.

7.0 Financial Implications 2011/12 and beyond (Authorised by the Borough Treasurer)

7.1 Not applicable.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 In accordance with the provisions of section 18 of the Licensing Act 2003 the Licensing Authority must, having regard to the representations, take such steps (if any) as it considers necessary for the promotion of the licensing objectives. Section 18(4) provides that the authority may (a) grant the licence subject to conditions; (b) 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; or (d) to reject the application.

9.0 Risk Management

9.1 Section 181 and Schedule 5 of the Licensing Act 2003 make provision for appeal to the Magistrates' Court of any decision made by the Licensing Authority.

10.0 Background and Options

10.1 The application is for Premises Licence under section 17 of the Licensing Act 2003.

10.2 The operating schedule indicates that the relevant licensable activities applied for are:
Sale and supply of alcohol (for consumption both on and off the premises).

10.3 The hours applied for are as follows:

Monday to Saturday 07.00 to 22.00
Sunday 08.00 to 18.00

Other times the premises are proposed to be open:

Monday to Saturday 07.00 to 22.00
Sunday 08.00 to 18.00

10.4 Designated Premises Supervisor: Carole Crowder-Trueman

10.5 The operating schedule includes the following steps to promote the licensing objectives:

(a) Prevention of crime and disorder

The premises shall be alarmed and part of the Neighbourhood Watch scheme.

There shall be a refusals book in operation at the premises.

All staff shall be trained relating to the Licensing law.

(b) Public safety

There shall be fire extinguishers which shall be regularly maintained.

All electrical equipment shall be regularly maintained.

Health & Safety procedures shall be followed.

(c) Prevention of public nuisance

Notices shall be displayed requesting customers to leave the premises quietly at night.

Waste disposal shall be removed during the day.

(d) Protection of children from harm

All staff shall be trained to prevent the sale of alcohol to children and will always ask for photographic identification.

All staff shall endeavour to ensure that no person buys alcohol for anyone under the age of 18 years.

Challenge 25 shall be in operation at the premises.

10.6 Relevant Representations:

Responsible Authorities

10.6.1 The Police state in their response: Application received 14 February 2011, from Gawsworth Community Shop Limited, for a Premises Licence at 2 Longbutts Lane, Gawsworth.

This application is made as a direct result of the former Premises Licence Holder surrendering the previous Premises Licence on 07/09/2010, which had been in place since 2004.

The shop is owned by the community and run mainly by volunteers. The proposed Designated Premises Supervisor will be Carole Crowder-Trueeman. She is currently in the process of obtaining a Personal Licence and will be the only paid member.

Whilst the terminal hour is shown as 22.00 hours, this will be a maximum of 12 times a year as they intend to operate a Wine Club with special promotions, serving food prepared by a Local Chef who

will recommend wine to accompany it. In general the shop will close between 17.00 and 18.00 hours. There are no Police objections.

(Since making this application, Carole Crowder-Trueman has now been granted a Personal Licence by Cheshire East Council).

10.6.2 Environmental Health – no response received.

10.6.3 Cheshire Fire Service – No comments.

10.6.4 Local Planning Authority – No response received.

10.6.5 Local Safeguarding Children Board – As Police response.

10.6.5 Health and Safety Officer – No comments.

10.6.6 Trading Standards – No response received.

Interested Parties

The Licensing Authority has received a representation from a neighbour objector. Details of this are appended to this report.

11.0 Overview of Year One and Term One Issues

12.1 Not applicable

12.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Mrs N Cadman

Designation: Licensing Officer

Tel No: 01270 685957

Email: nikki.cadman@cheshireeast.gov.uk

APPENDICES

Appendix 1 – Neighbour written objection.

Appendix 2 – Plan of Area.

Gawsworth
Macclesfield
SK11 9RU
24 February 2011

The Licensing Section
Cheshire East Council
Town Hall
Macclesfield
SK10 1DX

Dear Sirs

Licensing Application - Gawsworth Community Shop Ltd 2 Longbutts
Lane Gawsworth

With regard to the above we wish to express our concern at the hours of the licensing application. Our property is directly above the shop and whilst we have no problem with the proposed normal trading hours of business we do feel that extending the license to 10 pm Monday to Saturday and to 6pm on Sundays would create unacceptable levels of noise.

We would be obliged if you would take this into consideration when making your decision.

Yours faithfully

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GAWSWORTH COMMUNITY SHOP, LONGBUTTS LANE, GAWSWORTH, MACCLESFIELD, SK1 9QU

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