

Licensing Act Sub-Committee

Date of Meeting:	13 th April 2023
Report Title:	Application for a Premises Licence – 12 Oakwood Drive
Report of:	Jayne Traverse, Executive Director – Place
Ward(s) Affected:	Prestbury

1. Purpose of Report

- 1.1. To allow Members of the Sub-Committee to determine a contested application for the grant of a premises licence made under the Licensing Act 2003 for the following premises:

12 Oakwood Drive, Prestbury, SK10 4HG

2. Executive Summary

- 2.1 The report provides details of an application for a new Premises Licence, under section 17 of the Licensing Act 2003 and outlines the evidence presented by the parties in relation to the application.

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.** Not applicable

6. Background

- 6.1.** The application was received on the 21st February 2023 and sent out the Responsible Authorities for consultation on the 22nd February 2023. The application is made for a residential dwelling rather than a business premises. The applicant has confirmed in their application (see appendix 1) that the sale of alcohol at the premises will be remote and give the example of online sales.
- 6.2.** The Statutory Guidance issued by the Home Office specifically references Mobile, remote, internet and other delivery sales from paragraph 3.8. While Members should considered the guidance in its entirety, these specific paragraphs will inform the Sub-Committees decision-making.
- 6.3.** The hours applied for are as follows:
- Supply of alcohol (for consumption off the premises only)
Monday to Sunday – 09:30 to 12:30

7. Consultation and Engagement

7.1. Following receipt of the application, the public notices required by the legislation, were inspected on the 23rd February 2023. The notices were compliant with the requirements laid down in the regulations.

7.2. Responsible Authorities

7.2.1. The only response received from any of the Responsible Authorities was from the Council's Environmental Health Team. They confirmed that they had no comments or objections to make in respect of the application.

7.3. Other Persons

7.3.1. A number of relevant representations have been received from other persons. These are set out at appendix 2.

8. Implications

8.1. Legal

8.1.1. The Sub Committee must determine this application in accordance with section 18 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 18 (3)(b) 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 18 (4) provides that the authority may:

- a) Grant the licence subject to conditions as are consistent with the operating schedule accompanying the application, modified to such extent as the authority considers appropriate for the promotion of the licensing objectives and any mandatory conditions that must be included on the licence in accordance with the Licensing Act 2003
- b) Exclude from the scope of the licence any of the Licensable Activities to which the application relates
- c) Refuse to specify a person in the licence as the Premises Supervisor
- d) Reject the application

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 application. 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. 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 and the 'relevant person' who has submitted their representation and 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:	Kim Evans, Licensing Team Leader Licensing@Cheshireeast.gov.uk 0300 123 5015
Appendices:	Appendix 1 – Application and Plan of the licensed area Appendix 2 – Relevant Representations Appendix 3 – Location Map showing the premises in context
Background Papers:	Revised Guidance issued under section 182 of the Licensing Act 2003 (publishing.service.gov.uk) 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