

# CHESHIRE EAST COUNCIL

## REPORT TO: LICENSING ACT SUB-COMMITTEE

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<b>Date of Meeting:</b>	<b>Tuesday 27<sup>th</sup> January 2015 at 10.00am</b>
<b>Report of:</b>	Mrs N Cadman, Licensing Officer
<b>Subject/Title:</b>	<b>Application for a Premises Licence at 23 Queens Avenue, Macclesfield, SK10 2BH</b>

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### 1.0 Report Summary

- 1.1 The report provides details of an application for premises licence and the proposed operating schedule together with details of relevant representations received in relation to the application.

### 2.0 Recommendations

- 2.1 The Licensing Act Sub-Committee is requested to determine the application for a Premises Licence by Mrs Manju Mathew, in respect of:

23 Queens Avenue  
Macclesfield  
Cheshire  
SK10 2BH

- 2.2 Acting in the capacity of Licensing Authority, Members must seek to promote the Licensing Objectives, and where Members consider matters have engaged one or more of the objectives, they may exercise their discretion. The licensing objectives are:

- (a) The prevention of crime and disorder
- (b) Public safety
- (c) The prevention of public nuisance
- (d) The protection of children from harm

- 2.3 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 application and relevant representations in light of the proposed operating schedules.

- 2.4 The Sub-Committee in respect of this application must have regard to the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy.

- 2.5 Finally, Members are also reminded that in determining the application in accordance with the Licensing Act 2003, Members must also have regard to:

- § The rules of natural justice
- § The provisions of the Human Rights Act 1998

### **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 and the Council's Constitution.

### **4.0 Wards Affected**

4.1 Macclesfield Hurdsfield

### **5.0 Local Ward Members**

Councillor Stephen Carter

### **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.

6.2 Whilst having regard to the general principles within the Statement, Members may wish to consider the following:

6.2.1 The representations relate to the Prevention Crime and Disorder, Public Safety and the Prevention of Public Nuisance Objectives. The Licensing Authority sets out at paragraphs 7, 8 and 9 of its Statement of Licensing Policy how it will deal with representations under these objectives.

When exercising its licensing functions, the Licensing Authority will not be influenced by questions of need. The issue of whether or not there is a need for a particular premises is a commercial matter, which is not relevant to the Licensing Authority's considerations.

6.3 Members should provide reason(s) for any decision taken and should set out their reasoning where they determine to depart in any way from the Policy or Guidance.

### **7.0 Financial Implications**

7.1 Not applicable.

### **8.0 Legal Implications**

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 appropriate for the promotion of the licensing objectives. Section 18(4) provides that the authority may:

(a) Grant the licence subject to the relevant mandatory conditions and conditions consistent with the operating schedule

- (b) Modify the application to such extent as the Authority considers appropriate for the promotion of the Licensing Objectives
- (c) Exclude from the scope of the licence any of the Licensable Activities to which the application relates
- (d) Refuse to specify a person in the licence as the Premises Supervisor
- (e) Reject the application.

8.2 Members are reminded that should any conditions be added, they should be practical, enforceable and appropriate to promote the Licensing Objectives.

8.3 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 re-offending.

## **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 was received on the 2<sup>nd</sup> December 2014. The application is for the grant of a 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 off the premises only)**

10.3 The hours applied for are as follows:

### **Sale and supply of alcohol (for consumption off the premises only)**

Monday to Sunday 07.30 to 23.00

### **Hours Premises are Open to the Public**

Monday to Sunday 07.30 to 23.00

10.4 A copy of the application form is attached as Appendix 1.

10.5 Relevant Representations

### Responsible Authorities:

10.5.1 The Police in their response state: Application received 3<sup>rd</sup> December 2014 from Manju Mathew for a Premises Licence at Queens Avenue Convenience Store, 23 Queens Avenue, Macclesfield, SK10 2BH.

The application is for the sale and supply of alcohol off the premises from 07:30 to 23:00 Monday to Sunday. The proposed Designated Premises Supervisor is Manju Mathew, Personal Licence issued by Cheshire East Council. In addition to the operating Schedule Police have agreed with the applicant a Challenge 25 Policy will be adopted and providing there is no change there are no Police representations. There are no Police objections.

There were no responses from any of the other Responsible Authorities.

#### Other Persons:

10.5.4 Twenty two written objections and a petition containing 181 signatures has been received from interested persons. It was found that a number of the signatures on the petition were from persons who had also made written representation. Copies of these representations are attached as Appendix 2 of this report. A letter of support has been received from an interested person this is attached as Appendix 3 of this report.

An enquiry was received from one of the persons who made written objection to this application, to bring to the attention of the Licensing Authority that he was not aware that the public notice was displayed at the premises with effect from 2<sup>nd</sup> December 2014. This application for Premises Licence was received by the Licensing Authority on 2<sup>nd</sup> December 2014, making the legal requirement for the public notice to be on display at the premises the 3<sup>rd</sup> December 2014 for 28 consecutive days. A Licensing Officer of Cheshire East Council visited the premises on 8<sup>th</sup> December 2014 and found the public notice correctly on display. The application was also advertised by way of public notice in the 10<sup>th</sup> December 2014 edition of the Macclesfield Express, in accordance with the requirements of the Licensing Act 2003.

On 5<sup>th</sup> January 2015, the Licensing Authority received a letter with the petition enclosed again, but with four extra pages containing 20 signatures, which had not been included with the original petition received. This letter had been sent by recorded delivery. When tracked on line, it could be seen that the letter was accepted at the Post Office on 27<sup>th</sup> December 2014 and despatched to the Post Office mail centre. Delivery was attempted to the Cheshire East Council Municipal Buildings in Crewe on 29<sup>th</sup> December, and 30<sup>th</sup> December while the Council Buildings were closed for Christmas shut down. The letter was successfully delivered on 5<sup>th</sup> January 2015, which was outside of the statutory consultation period for this application. Copies of this part of the petition will be available for Members to view at the hearing. Members will need to decide whether they wish this information to be taken into consideration at the hearing.

## **11.0 Access to Information**

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

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## **APPENDICES**

Appendix 1 – Premises Licence application form

Appendix 2 - Written objections and petition from interested persons.

Appendix 3 – Written support from an interested person.

Appendix 4 – Map