

Licensing Act Sub Committee

Date of Meeting: 16th May 2022

Report Title: Application for a new Premises Licence at 98-100 Mill Street,
Macclesfield, SK11 6NR

Senior Officer: Paul Bayley –

Director of Neighbourhood & Environmental Services

1. Report Summary

- 1.1. 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 new grant application.

2. Recommendations

- 2.1. The Licensing Act Sub-Committee is requested to determine the application for a new Premises Licence by Ms Tracey Leanne Whitworth, in respect of:

98-100 Mill Street
Macclesfield
SK11 6NR

- 2.2. 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.
- 2.3. 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:
- a) The prevention of crime and disorder
 - b) Public Safety
 - c) The prevention of public nuisance

d) The protection of children from harm

2.4. 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.

2.5. 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.

3. 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. Other Options Considered

4.1. Not applicable.

5. Background

5.1. On 31st March 2022 an application was received by the Licensing Department for a new Premises Licence in respect of 98-100 Mill Street, Macclesfield, SK11 6NR. The application was then sent for consultation. The last date for representations to be made was 28th April 2022. A copy of the application form is attached to this report at **Appendix 1**.

5.2. An internal plan of the premises provided by the applicant is attached at **Appendix 2**.

5.3. To assist Members, a map of the area in which the premises is located is attached at **Appendix 3**.

5.4. Ms Tracey Leanne Whitworth is to be the Premises Licence Holder.

5.5. Mr David Shane Spruce is to be the Designated Premises Supervisor. He holds a Personal Licence issued by Cheshire East Council.

5.6. The licensable activities and relevant times applied for can be found in the following tables:

5.7. **Sale and supply of alcohol (for consumption on the premises only):**

	Start	End
Monday	12:00	02:00
Tuesday	12:00	02:00
Wednesday	12:00	02:00
Thursday	12:00	02:00
Friday	12:00	02:00
Saturday	12:00	02:00
Sunday	12:00	02:00

5.8. Non-standard times were not applied for.

5.9. The provision of recorded music (amplified and indoors only):

	Start	End
Monday	12:00	02:00
Tuesday	12:00	02:00
Wednesday	12:00	02:00
Thursday	12:00	02:00
Friday	12:00	02:00
Saturday	12:00	02:00
Sunday	12:00	02:00

5.10. Non-standard times for the above: both Christmas Eve and New Years Eve to be extended by one hour to 03:00.

5.11. Provision of anything of a similar description to live music, recorded music or performances of dance (indoors only):

	Start	End
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Monday	12:00	02:00
Tuesday	12:00	02:00
Wednesday	12:00	02:00
Thursday	12:00	02:00
Friday	12:00	02:00
Saturday	12:00	02:00
Sunday	12:00	02:00

- 5.12. The applicant has indicated that the above relates to recorded music and the showing of BT Sport and Sky Sports on televisions. Members should note that the live showing of television is not licensable activity. Non-standard times were not applied for.

- 5.13. **Provision of late night refreshment (both indoors and outdoors):**

	Start	End
Monday	12:00	02:00
Tuesday	12:00	02:00
Wednesday	12:00	02:00
Thursday	12:00	02:00
Friday	12:00	02:00
Saturday	12:00	02:00
Sunday	12:00	02:00

- 5.14. Non-standard times for the above: both Christmas Eve and New Years Eve to be extended by one hour to 03:00.
- 5.15. Two valid notices were inspected at the premises by a Licensing Enforcement Officer on 13th April 2022. The application was also correctly advertised in local newspaper.

5.16. Responsible Authorities:

- 5.16.1. Environmental Protection have approved the application but with Conditions attached. Those Conditions relate to the Licensing Objective 'the prevention of public nuisance' and are as follows:
- 5.16.2. *The use of the beer garden / outside drinking area shall not be used for entertainment*
- 5.16.3. *No music to be played in the outside drinking area.*
- 5.16.4. *All external windows and doors shall be closed whilst entertainment is taking place, except for normal access and egress.*
- 5.16.5. *Regular noise assessments shall be undertaken by a competent person (either the Licensee or Manager) and steps shall be taken to reduce the level of noise where it is likely to cause a disturbance to local residents. The noise assessments shall be undertaken during opening hours of the premises and when entertainment or music is occurring. A written record shall be made of those assessments in a log book, kept for that purpose and shall include; the time and date of the checks, the person making them and the results including any remedial action in order to reduce the level of noise where it is likely to cause a disturbance to local residents.*
- 5.16.6. *Thirty minutes before the end of the time permitted for the provision of entertainment, music levels shall be gradually reduced to a lower volume and temp.*
- 5.16.7. *Door staff must request customers to leave the area quickly and quietly.*
- 5.16.8. *There shall be notices located at the exit(s) requesting that customers leaving the premises do so quietly and with consideration to neighbours.*
- 5.16.9. *There shall be no disposal of bottles outside the premises between the hours of 21.00 and 09.00.*
- 5.16.10. A copy of Environmental Protection's representation is attached at **Appendix 4.**

5.16.11. Cheshire Constabulary have agreed conditions with the applicant. The agreed conditions relate to the Licensing Objectives 'the prevention of harm to children' and 'the prevention of crime and disorder'.

5.16.12. As part of those agreed Conditions the applicant has agreed to amend the hours for the sale and supply of alcohol. This will allow for a 30 minute 'drinking up' time. Therefore, the amended supply of alcohol times agreed are as follows:

1.1. Sale and supply of alcohol (for consumption on the premises only):

	Start	End
Monday	12:00	01:30
Tuesday	12:00	01:30
Wednesday	12:00	01:30
Thursday	12:00	01:30
Friday	12:00	01:30
Saturday	12:00	01:30
Sunday	12:00	01:30

5.16.13. The conditions agreed with Police will replace those offered by the applicant within the application form. They relate to the following areas:

- *Challenge 25*
- *CCTV*
- *Staff Training*
- *SIA Door supervisors*
- *Drug policy*

5.16.14. The opening hours will remain the same as applied for within the application.

5.16.15. All other conditions offered by the applicant within the application form are welcomed by Cheshire Constabulary. A full copy of the agreed conditions are attached at **Appendix 5**.

5.17. Other Persons:

5.17.1. The Council has received two valid objections against the application from members of the public and from the Cheshire East Council ward member. They relate to the Licensing Objectives 'the prevention of crime and disorder', 'the prevention of public nuisance' and 'the protection of children from harm'. Copies of those representations are attached at **Appendices 6 to 9**.

5.17.2. It will be noted that **Appendices 8 & 9** are from the same objector. It will also be noted that **Appendix 9** does not refer to the premises being considered within this Report.

2. Implications of the Recommendations

2.1. Legal Implications

2.1.1. 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 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.

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

2.1.3. 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.

2.2. Finance Implications

2.2.1. There are no financial implications.

2.3. Policy Implications

2.3.1. The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003.

2.3.2. The Licensing Authority must also have due regard to the guidance issued under section 182 of the Licensing Act 2003.

2.3.3. 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.

2.4. Equality Implications

2.4.1. There are no direct equality implications.

2.5. Human Resources Implications

2.5.1. There are no human resources implications.

2.6. Risk Management Implications

2.6.1. 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.

2.7. Rural Communities Implications

2.7.1. There are no direct implications for rural communities.

2.8. Implications for Children & Young People/Cared for Children

2.8.1. There are no direct implications for children and young people.

2.9. Public Health Implications

6.10.1 There are no direct implications for public health.

2.10. Climate Change Implications

2.10.1. There are no direct implications for Climate Change.

3. Ward Members Affected

3.1. Councillor Liz Braithwaite

3.2. Councillor Ashley Farrall

4. Consultation & Engagement

4.1. Consultation in respect of submission of an application for a new Premises Licence is prescribed in the Licensing Act 2003 and has been fully complied with.

5. Access to Information

5.1. The background papers relating to this report can be made available by contacting the report writer.

6. Contact Information

6.1. Any questions relating to this report should be directed to the following officer:

Name: Richard Hellon

Job Title: Licensing Enforcement Officer

Email: Richard.hellon@cheshireeast.gov.uk

Appendix 1 – Application form

Appendix 2 – Plan

Appendix 3 – Map

Appendix 4 – Environmental Protection representation

Appendix 5 – Police representation

Appendix 6 – Member of public objection

Appendix 7 – Member of public objection

Appendix 8 & 9 – Councillor objection