

Licensing Act Sub Committee

Date of Meeting: 12th July 2022

Report Title: Application for a new Premises Licence at:
Suburban Green, 88-90 Chestergate, Macclesfield, SK11 6DU

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 application.

2. Recommendations

- 2.1. The Licensing Act Sub-Committee is requested to determine the application for a Premises Licence by Chestergate Green Limited, in respect of:

Suburban Green
88-90 Chestergate
Macclesfield
SK11 6DU

- 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 18th May 2022 an application was received by the Licensing Department for a new Premises Licence in respect of Suburban Green, 88-90 Chestergate, Macclesfield, SK11 6DU. The application was then sent for consultation. The last date for representations to be made was 15th June 2022.

5.2. A copy of the application form is attached to this report at **Appendix 1**.

5.3. Accompanying the application form were further supporting documents; a Dispersal Policy is attached at **Appendix 2**; an Operating Schedule is attached at **Appendix 3**; a Smoking Policy is attached at **Appendix 4**.

5.4. A plan of the premises has been provided by the applicant; a copy of that plan is attached at **Appendix 5**.

5.5. To assist Members, a locational map of the area is attached to this report at **Appendix 6**.

5.6. The operating schedule indicates that the relevant licensable activities applied for are:

- Provision of live music;
- Provision of recorded music;
- Provision of late night refreshment;
- Supply of alcohol

5.7. The hours applied for can be found in the following tables:

5.8. **Provision of live music** (indoors only):

| | Start | End |
|-----------|-------|-------|
| Monday | 08:00 | 23:00 |
| Tuesday | 08:00 | 23:00 |
| Wednesday | 08:00 | 23:00 |
| Thursday | 08:00 | 23:00 |
| Friday | 08:00 | 00:00 |
| Saturday | 08:00 | 00:00 |
| Sunday | 08:00 | 23:00 |

5.9. Non-standard times applied for: From the start time on New Year's Eve to the terminal hour for New Year's Day.

5.10. Provision of recorded music (indoors only):

| | Start | End |
|-----------|-------|-------|
| Monday | 08:00 | 23:00 |
| Tuesday | 08:00 | 23:00 |
| Wednesday | 08:00 | 23:00 |
| Thursday | 08:00 | 23:00 |
| Friday | 08:00 | 00:00 |
| Saturday | 08:00 | 00:00 |
| Sunday | 08:00 | 23:00 |

5.11. Non-standard times applied for: From the start time on New Year's Eve to the terminal hour for New Year's Day.

5.12. Provision of late night refreshment (both indoors and outdoors):

| | Start | End |
|-----------|-------|-------|
| Monday | 23:00 | 23:30 |
| Tuesday | 23:00 | 23:30 |
| Wednesday | 23:00 | 23:30 |
| Thursday | 23:00 | 23:30 |
| Friday | 23:00 | 00:30 |
| Saturday | 23:00 | 00:30 |
| Sunday | 23:00 | 23:30 |

5.13. Non-standard times applied for: From the start time on New Year's Eve to the terminal hour for New Year's Day.

5.14. **Supply of Alcohol** (for consumption both on and off the premises):

| | Start | End |
|-----------|-------|-------|
| Monday | 08:00 | 23:00 |
| Tuesday | 08:00 | 23:00 |
| Wednesday | 08:00 | 23:00 |
| Thursday | 08:00 | 23:00 |
| Friday | 08:00 | 00:00 |
| Saturday | 08:00 | 00:00 |
| Sunday | 08:00 | 23:00 |

5.15. Non-standard times applied for: From the start time on New Year's Eve to the terminal hour for New Year's Day.

5.16. **Opening hours:**

| | Open | Close |
|-----------|-------|-------|
| Monday | 08:00 | 23:30 |
| Tuesday | 08:00 | 23:30 |
| Wednesday | 08:00 | 23:30 |
| Thursday | 08:00 | 23:30 |
| Friday | 08:00 | 00:30 |
| Saturday | 08:00 | 00:30 |
| Sunday | 08:00 | 23:30 |

5.17. Non-standard times applied for: From the start time on New Year's Eve to the terminal hour for New Year's Day.

5.18. The application was advertised as required within a newspaper circulating in the local area on 25th May 2022. In addition, a valid Statutory Notice was inspected at the premises by a Licensing Enforcement Officer on 30th May 2022.

5.19. Responsible Authorities:

5.19.1. Cheshire Constabulary had no objections to the application.

5.19.2. An objection was initially received from Environmental Protection based upon the Licensing Objective 'Prevention of Public Nuisance'. However, that objection was subsequently withdrawn following an agreement being reached with the applicant. The points proposed by the applicant and agreed upon by Environmental Protection are as follows:

- *We have applied for licensable activities to take place Sunday to Thursday 08:00 until 23:00 and Friday and Saturday 08:00 until midnight. We would like those hours to remain so that if the later hours are permitted by planning, my client will have the correct hours on both the licensing and planning. My client is aware that the lesser hours out of planning and licensing should be adhered to and so even if these hours are granted now, they cannot and will not be traded unless and until planning has been permitted.*
- *We are happy to withdraw the provision for live and recorded music and play background music only*
- *We are happy to amend the emptying of waste into refuse bins outdoors to 09:00 and 19:00 as per the planning condition*
- *Remove the condition in respect of windows and doors being open until 23:00 – air conditioning has been fitted and therefore we are happy for the windows and doors to be closed at all times safe for access and egress*
- *There is no proposal to use any external area save for any smokers.*

5.19.3. A copy of the email correspondence agreeing the above is attached at **Appendix 7**.

5.20. Other Persons:

5.20.1. An objection was received from a Cheshire East Council Ward Member. That objection relates to the Licensing Objectives 'Prevention of Public Nuisance' and 'Protection of Children from Harm'. A copy of

the representation (an email and a supporting document) is attached to this report at both **Appendix 8** and **Appendix 9**.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. 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.

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

6.1.3. 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.

6.2. Finance Implications

6.2.1. There are no financial implications.

6.3. Policy Implications

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

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

6.3.3. 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.

6.4. Equality Implications

6.4.1. There are no direct equality implications.

6.5. Human Resources Implications

6.5.1. There are no human resources implications.

6.6. Risk Management Implications

6.6.1. 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.

6.7. Rural Communities Implications

6.7.1. There are no direct implications for rural communities.

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

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

6.9. Public Health Implications

6.10.1 There are no direct implications for public health.

6.10. Climate Change Implications

6.10.1. There are no direct implications for Climate Change.

7. Ward Members Affected

7.1. Cllr Liz Braithwaite

7.2. Cllr Ashley Farrall

8. Consultation & Engagement

- 8.1. 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.

9. Access to Information

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

10. Contact Information

- 10.1. 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 – Dispersal Policy

Appendix 3 – Operating Schedule

Appendix 4 – Smoking Policy

Appendix 5 – Plan of Premises

Appendix 6 – Locational Map

Appendix 7 – Email correspondence between applicant and Environmental Protection

Appendix 8 – Ward Member Objection email

Appendix 9 – Ward Member Objection document