

Licensing Act Sub-Committee

Date of Meeting:	16 th August 2022
Report Title:	Application for a Premises Licence – The Estate Office, The Village, Prestbury, SK10 4AL
Report of:	Jayne Traverse, Executive Director – Place
Report Reference No:	To be provided by Democratic Services
Ward(s) Affected:	Prestbury – Councillor Paul Findlow

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:

The Estate Office, The Village, Prestbury, SK10 4AL

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.** On 21st June 2022 a valid application was received by the Licensing Department for the grant of a Premises Licence in respect of The Estate Office, The Village, Prestbury, SK10 4AL. The application was sent for consultation the same day on 21st June 2022. The last date for representations to be made was 19th July 2022. A copy of the full application is attached to this report at **Appendix 1**.
- 6.2.** A map of the area in which the premises is located is attached to this report at **Appendix 4**.
- 6.3.** The operating schedule applied for indicates that the relevant licensable activities applied for are:
- Supply of alcohol
 - Provision of Recorded Music
 - Provision of Live Music

6.4. The hours applied for are as follows:

- Supply of alcohol (for consumption on & off the premises)
Monday to Sunday – 10:00 to 00:00hrs
- Provision of Recorded Music (Indoors)
Monday to Sunday – 23:00 to 00:00hrs
- Provision of Live Music (Indoors)
Monday to Sunday 23:00 to 00:00hrs

6.5. On 27th July 2022 the Licensing Authority received from the applicant's agent an email confirming that, in view of the objections received (*see para 6.4*), the applicant was willing to amend the terminal hour for all licensable activities to 23:00hrs. A copy of this email is attached to this report and marked as **Appendix 3**.

6.6. Members of the Licensing Sub-Committee are reminded that the provision of Regulated Entertainment does not become a licensable activity under the Licensing Act 2003 until after 23:00hrs. Therefore, the amended hours applied for in respect of Regulated Entertainment do not fall within the definition of a licensable activity, and as such, are no longer relevant to the material application for the grant of a Premises Licence.

6.7. In view of the applicant's withdrawal of Regulated Entertainment from their application, the amended operating schedule applied for now only includes the following relevant licensable activities:

- Supply of alcohol

6.8. The amended hours now applied for are as follows:

- Supply of alcohol (for consumption on & off the premises)
Monday to Sunday – 10:00 to 23:00hrs

7. Consultation and Engagement

7.1. Licensing records show that the Public Notice that is required to be displayed at or near the proposed premises in accordance with The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005, has been inspected by a Licensing Officer and confirmed to be present, and met the requirements under the regulations. The Public

Notice has also been duly advertised in the Macclesfield Express newspaper, as required.

7.2. Responsible Authorities:

The Licensing Authority has not received representations from any of the responsible authorities, save for Environmental Health who submitted proposed Licence Conditions to the Licensing Authority during the consultation period.

7.3. In the normal course of applications, it is customary for Environmental Health to liaise with applicants in regard to proposed Licence Conditions. It appears that this process has not been undertaken in relation to this application, however a copy of their proposed conditions has been sent to the applicant on 1st August 2022. At the time of writing, it is still being considered by the applicant. A copy of Environmental Health's proposed conditions is attached to this report at **Appendix 5**.

7.4. Other Persons:

The Council received three representations against the application, from members of the public. Following the applicant's reduction in regard to the terminal hour of all licensable activities to 23:00hrs (*as set out in para 5.5 to 5.8 above*), one of the representations was withdrawn. Therefore, two representations remain. A copy of the remaining objections is attached to this report 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:	Martin Kilduff, Licensing Enforcement Officer Licensing@Cheshireeast.gov.uk 0300 123 5015
Appendices:	Appendix 1 – Application & plan of premises Appendix 2 – Representation from members of the public x 2 Appendix 3 – Map of area Appendix 4 - Representation from member of the public Appendix 5 - Conditions proposed by Environmental Health
Background Papers:	Statutory Guidance issued under section 182 of the Licensing Act 2003 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