

Licensing Act Sub-Committee

Agenda

Date: Friday, 22nd July, 2011

Time: 9.30 am

Venue: The Tatton Room - Town Hall, Macclesfield SK10 1DX

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Appointment of Chairman**

To appoint a Chairman for the meeting.

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests and for Members to declare if they have pre-determined any item on the agenda.

3. **Application for a Premises Licence - Fusion Super Deli, 2 Moor Lane, Wilmslow SK9 6AG** (Pages 5 - 12)

To consider an application for a Premises Licence for Fusion Super Deli, 2 Moor Lane, Wilmslow.

PART 2 – THERE ARE NO PART 2 ITEMS

For requests for further information

Contact: Julie Zientek

Tel: 01270 686466

E-Mail: julie.zientek@cheshireeast.gov.uk

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CHESHIRE EAST COUNCIL

PROCEDURE FOR HEARINGS – LICENSING ACT 2003

The Licensing Committee

The full Licensing Committee consists of fifteen elected Members of the Council. From this full Committee will be drawn sub-committees of three members to deal with licensing functions under the Licensing Act 2003. The Chairman and Vice Chairman of the Licensing Committee shall have the discretion to refer a matter up to a hearing of the full Licensing Committee.

Officers at Hearings

- **The Committee Officer** introduces all parties and records the proceedings
- **The Legal Adviser** provides independent advice to the Members on legal matters and procedure.
- **The Licensing Officer** will introduce the matter and outline the application; the officer will also answer any questions Members may have.

PROCEDURE

NOTE: If the Sub-Committee has not already elected a Chairman, that will be the first item of business.

1	Chairman	The Chairman will: (i) call the matter to be considered; (ii) call for any declarations of interest; (iii) ask all parties to introduce themselves; (iv) summarise the procedure to be followed at the hearing; (v) will consider any request made by a party for another person to appear at the hearing; (v) will advise the parties of any maximum period of time in which it has to present its case (if a maximum is imposed this shall be equal for all parties).
2	Licensing Officer	Will introduce and summarise the application, highlighting areas of contention or dispute.
3	Committee Members	May ask questions of the Licensing Officer
4	Applicant	Will present his/her case, calling witnesses, as appropriate. <i>(If necessary, applicant will produce any notices required by law. Legal Adviser will draw attention to this if required.)</i>
5	Responsible Authorities (who have made representations)	Each in turn may ask <u>questions</u> of the applicant, by way of clarification.

6	Local residents (ie. defined as “interested parties”)	To be invited to ask <u>questions</u> of the applicant, by way of clarification. <i>It is normal practice for a spokesperson only to speak on behalf of a group of residents.</i>
7	Committee Members	Each in turn may ask <u>questions</u> of the applicant.
8	Applicant	May make a <u>statement</u> or ask his witnesses to clarify any matters which he feels are unclear, or may have been misunderstood.
9	Responsible Authorities	Will make their representations.
10	Applicant	Or his representative or witnesses to ask <u>questions</u> of Responsible Authorities represented at the meeting, by way of clarification.
11	Local residents (ie. defined as “interested parties”)	May ask <u>questions</u> of the Responsible Authorities represented at the meeting, by way of clarification. (Note: This is not the point at which local residents should be stating their objections.)
12	Committee Members	May ask <u>questions</u> of the Responsible Authorities represented at the meeting
13	Local residents (ie. defined as “interested parties”)	The local residents who are objecting to the application will be invited <u>to make observations on the application</u> and present the bases of their objections.
15	Applicant	Or his representative or witnesses may ask <u>questions</u> of the Local Residents, by way of clarification.
16	Committee Members	May ask <u>questions</u> of the Local Residents.
17	Chairman	To invite both Responsible Authorities and Local Residents to make their closing addresses.
18	Applicant	Or his representative will <u>briefly summarise the application</u> and comment on the observations and any suggested conditions.
19	Committee	<u>Will retire</u> to consider the application. The Committee may request the Legal Advisor to advise on legal issues.
20	Committee	Will return to <u>give its decision</u> , with reasons, which will be announced by the Chairman and subsequently confirmed in writing to the applicant and to all the parties that made representations.

		In cases where a decision cannot be given at the end of the hearing, parties will be advised of the decision within five working days.
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Notes

1. The hearing shall normally be held in public. There may be occasions on which the Committee find it necessary to exclude members of the press and public; any such decision will be taken on the basis that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public.
2. The Chairman may require any person behaving in a disruptive manner to leave the hearing and may (a) refuse to permit that person to return, or (b) permit him/her to return only on such conditions as the authority may specify, but any such person may submit in writing any information which they would have been entitled to provide orally if they had not been required to leave.
3. Prior to the hearing each party shall have given notification and served documentation (eg statements of witnesses or reports of experts) as required. Late representations and evidence will only be considered with the agreement of all parties.
4. Anyone entitled to be heard may be represented by any person, whether or not that person is legally qualified.
5. Hearsay will be permitted but the Sub-Committee will be reminded to give it appropriate weight.
6. Due note shall be taken of the provisions of the Hearings Regulations 2005.
7. The Chair may, in the interests of expediency or convenience of the parties, vary the procedure from time to time, provided notice is given to the parties and the rules of natural justice are observed.

SUMMARY OF PROCEDURE

- 1 Chairman appointed (if this has not been done previously).
- 2 Chairman to call for declarations of interest and request that all parties introduce themselves.
- 3 Chairman summarises the procedure for the hearing
- 4 The Licensing Officer summarises the application
- 5 Applicant to present his/her case.
- 6 Applicant to be questioned by all parties (to clarify points only) following which, he/she can clarify any other matters which he/she feels may have been misunderstood when the application was presented.
- 7 Applicant to be questioned by the Committee.
- 8 Responsible Authorities to make their representations following which they can be questioned by all parties by way of clarification.
- 9 **Local residents** (defined as interested parties) will be invited to present the bases of their objections, following which they can be questioned by all parties by way of clarification.
- 10 The applicant will be invited to sum up his/her case
- 11 Committee/Sub-Committee withdraws to make its decision
- 12 Committee/Sub-Committee returns to announce its decision to all present.

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING ACT SUB-COMMITTEE

Date of Meeting:	Friday 22nd July 2011 at 09.30hrs
Report of:	Mrs N Cadman, Licensing Officer
Subject/Title:	Application for a Premises Licence Fusion Super Deli, 2 Moor Lane, Wilmslow, SK9 6AG

1.0 Report Summary

- 1.1 The report provides details of an application for a premises licence together with information as to representations received in relation to the application.

2.0 Recommendations

The Licensing Act Sub-Committee is requested to determine the application for a Premises Licence by Fusion Super Deli Ltd in respect of Fusion Super Deli, 2 Moor Lane, Wilmslow, Cheshire.

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.

4.0 Wards Affected

- 4.1 Wilmslow West and Chorley

5.0 Local Ward Members

Cllr G P Barton
Cllr W Fitzgerald

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 and Guidance issued under section 182 of the Act.

7.0 Financial Implications 2011/12 and beyond (Authorised by the Borough Treasurer)

- 7.1 Not applicable.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 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 necessary for the promotion of the licensing objectives. Section 18(4) provides that the authority may (a) grant the licence subject to conditions; (b) exclude from the scope of the licence any of the licensable activities to which the

application relates; (c) to refuse to specify a person in the licence as the premises supervisor; or (d) to reject the application.

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 is for 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:

Monday to Sunday 08.00 to 23.00

The hours the premises are open to the public:

Monday to Sunday 08.00 to 23.00
- 10.4 Designated Premises Supervisor: Lawrence Lee
- 10.5 The operating schedule includes the following steps to promote the licensing objectives:
- (a) Prevention of crime and disorder
- The premises shall be covered by CCTV and recordings shall be kept for 45 days and made available to the Police on request.
- Any person appearing to be drunk or acting in an aggressive manner shall be asked to leave the premises.
- There shall be a code locked door to the store kept locked at all times.
- (a) Public safety
- Staff shall be made fully aware of the Licensing laws.
- Floor areas and fire exits shall be kept clear at all times.
- There shall be regular electrical and gas safety checks made by approved contractors.
- (b) Prevention of public nuisance
- Notices shall be displayed asking customers to be quiet and considerate for local residents.

There shall be no irresponsible alcohol promotions.

There shall be no sale of alcohol for consumption on the premises.

(c) Protection of children from harm

The Challenge 25 Scheme shall be adopted at the premises with clear display signage within the store. ID shall be required if a customer appears to be under the age of 25 (only photo type driving licence, passport or accredited proof of age cards).

10.6 Relevant Representations:

Responsible Authorities

10.6.1 The Police state in their response: Application received 1st June 2011, for a Premises Licence at Fusion Super Deli, 2 Moor Lane, Wilmslow, SK9 6AG. The premises were formerly Wine Rack which went into Administration and on 18 February 2010 surrendered the Premises Licence. The application is for the sale and supply of alcohol from 08:00 to 23:00 hours daily. I visited the premises on Monday 13th June 2011, and observed the Blue Notice was correctly displayed. I took pictures which I can produce if required. This application meets the four licensing objectives to the satisfaction of the Police and providing these are met there are no Police representations.

10.6.2 The Environmental Health Officer – No response received.

10.6.3 Cheshire Fire Service – No response received.

10.6.4 Local Planning Authority – No response received.

10.6.5 Local Safeguarding Children Board – As Police response.

10.6.5 Health and Safety Officer – No response received.

10.6.6 Trading Standards – No response received.

Interested Parties

The Licensing Authority has received representations from neighbour objectors. Details of these are appended to this report.

11.0 Overview of Year One and Term One Issues

11.1 Not applicable

12.0 Access to Information

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

Name: Mrs N Cadman
Designation: Licensing Officer
Tel No: 01270 685957

Email: nikki.cadman@cheshireeast.gov.uk

APPENDICES

Appendix 1 – 2 Representations from neighbour objectors.

Appendix 3 – Letter from applicant.

Appendix 4 - Plan of area.

The Licensing Section,
Cheshire East Council,
Town Hall,
Macclesfield.
Cheshire.
SK10 1DX

Application for a New Premises License

Dear Sirs,

I am writing in connection with the license application by Fusion Super Deli Ltd, for the Off Premise Sale of Alcohol at their property at 2, Moor Lane Wilmslow SK9 6AG.

I object most strongly to this application on the following grounds.

1. There are already three Public Houses within five hundred meters, and two others within a kilometer.
2. There are two General Stores within two hundred meters with an Off Premise License.
3. I have lived on Oak Lane for forty-five years and seen the problems caused by having an Off Premise Licensed Shop open until late into the evening. This has lead to under age drinking on Oak Lane and Lindow Common, with subsequent litter being strewn about, excess noise and damage to property.

Yours truly,

17/06/11

The Licensing Section,
Cheshire East Council,
Town Hall,
MACCLESFIELD.
Cheshire.
SK10 1DX

Ref: Alcohol License Application @ Fusion Super Deli.

Dear Sirs,

With reference to the above application, I would like to make my objections known.

There already exist far too many outlets for alcohol in the surrounding area.

My main objection is to the timing. In my opinion 9.30 PM is plenty late enough for people to access alcohol.

We already have an existing problem with under aged drinking around the Lindow Common area, and the subsequent problems it causes.

Allowing access to drink till 11 PM will only exacerbate the situation.

I sincerely hope the committee will consider my suggestions, and do the right thing by the decent people who live in this area, and who like to enjoy a quiet time between 11 PM and 7 AM.

NO DRINK AFTER 9.30.PM THANKYOU.

Yours faithfully,

**Fusion Super Deli
2 Moor Lane
Wilmslow
Cheshire
SK9 1EH**

1st July 2011

Mrs N Cadman
Licensing Officer
Cheshire East Council
Licensing Section
Town Hall
Macclesfield
SK10 1DX

Dear Mrs Cadman,

I would like to confirm that I will be attending the hearing on Friday 22nd July 2011.

As you know from conversations with me and Maurice Newton, I do believe the hearing to be completely unnecessary given the former usage of the shop from 1988 to 2009, and the lack of police objection relating to public nuisance.

Yours sincerely

**Glen Lo
Director
Fusion Super Deli Ltd**

