

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Licensing Act Sub-Committee**
held on Monday, 14th December, 2020 as a Virtual Meeting.

PRESENT

Councillors M Goldsmith, K Flavell and I Macfarlane

OFFICERS IN ATTENDANCE

Kim Evans- Licensing Officer
Nashwan Fazlani- Legal Officer
Helen Davies- Democratic Services Officer

ALSO PRESENT

Reece Mercer and Rebecca Hawkins- Applicant
Local Ward Councillor Liz Braithwaite- Objector

10 APPOINTMENT OF CHAIRMAN

RESOLVED- That Councillor Mark Goldsmith be appointed as Chairman.

11 DECLARATIONS OF INTEREST

There were no declarations of interest.

12 APPLICATION FOR A PREMISES LICENCE AT INDULGE MACC LTD, 4A UNIT 5 CROMPTON ROAD MILL, CROMPTON ROAD, MACCLESFIELD, SK11 8DS

The Sub-Committee considered a report regarding an application by Indulge Macc Ltd for a premises licence under the Licensing Act 2003 in respect of Indulge Macc Ltd, 4A Unit 5, Crompton Road Mill, Crompton Road, Macclesfield, SK11 8DS together with objections and support.

The following attending the hearing and made representations with respect to the application:

- the Applicant; and
- Local Ward Member.

After a full hearing of the application and in accordance with the rules of procedure, the Chairman of the Sub-Committee reported that after taking account of:

- The Secretary of State's Guidance under section 182 of the Licensing Act 2003;

- Cheshire East Borough Council's Statement of Licensing Policy;
- the four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm) and the steps appropriate to promote them; and
- All the evidence, including the oral representations made at the meeting and the written representations of interested parties.

The following course of action had been agreed:

RESOLVED-

That the application for a Premises Licence be **REFUSED** as outlined below:

1. The Licensing Act Sub-Committee, having considered all relevant representations and evidence decided there was an excessively high level of risk of public nuisance which would occur due to noise which would cause an unacceptable level of disturbance to local residents and found that additional conditions could not sufficiently mitigate against.
2. The location of the premises is situated in a highly residential area and although the Licensing Act Sub-Committee had regard to the fact the unit itself is beyond a set of doors, the frequent opening of the doors in addition to the frequent car journeys to the site risk causing a public nuisance due to the noise levels during late and anti-social hours.
3. The Licensing Act Sub-Committee considered whether additional conditions could mitigate the risk of public nuisance stated above but concluded none would be sufficient given the proposed location of the premises is an unsuitable area for a licensed premises of this type and character.
4. The Licensing Act Sub-Committee were deeply troubled with the lack of formal practices and procedures to mitigate against the risks of public nuisance caused by noise during of course of deliveries to customers as detailed previously. They found that the informal measures the Applicant intended to utilise were insufficient to uphold the Licensing Objective of prevention of public nuisance.
5. In making its determination, the Sub-Committee has considered the application of the judgment in *Thwaites v Wirral Borough Magistrates' Court & others [2008] EWHC 838* and the requirement that decisions are made on the basis of evidence of the potential harm to the licensing objectives rather than purely speculative concerns, which the facts revealed in this case highlight.

The meeting commenced at 10.00 am and concluded at 10.39 am

Councillor Mark Goldsmith