

CHESHIRE EAST COUNCIL

REPORT TO: LICENSING ACT SUB-COMMITTEE

Date of Meeting:	10.00AM Wednesday 19 April 2017
Report of:	Jennifer Knight, Licensing Officer
Subject/Title:	Application for a New Premises Licence for Bargain Booze, 7 Thornton Square, Macclesfield, Cheshire, SK11 7XZ

1.0 Report Summary

- 1.1 The report provides details of an application for a Premises Licence, and the proposed operating schedule together with details of relevant representations received in relation to the application.

2.0 Recommendations

- 2.1 The Licensing Act Sub-Committee is requested to determine the application for a Premises Licence by **Lia Rutter**, in respect of:

Bargain Booze
7 Thornton Square, Macclesfield, Cheshire, SK11 7XZ

- 2.2 Acting in the capacity of Licensing Authority, Members must seek to promote the Licensing Objectives, and where Members consider 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

- 2.3 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 application and relevant representations in light of the proposed operating schedules.

- 2.4 The Sub-Committee in respect of this application must have regard to the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy.

- 2.5 Finally, Members are also reminded that in determining the application in accordance with the Licensing Act 2003, Members must also have regard to:

- The rules of natural justice
- The provisions of the Human Rights Act 1998

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 and the Council's Constitution.

4.0 Wards Affected

- 4.1 Macclesfield South

5.0 Local Ward Members

Councillor Chris Andrew
Councillor Laura Jeuda

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.

- 6.2 Whilst having regard to the general principles within the Statement, Members may wish to consider the following:

- 6.2.1 The representations relate to the Prevention of Crime and Disorder and the Prevention of Public Nuisance Licensing Objectives. The Licensing Authority sets out at paragraphs 7 and 9 respectively, of its Statement of Licensing Policy how it will deal with representations under these objectives. At paragraph 9.1 the Statement of licensing policy confirm that a broad interpretation of what constitutes a public nuisance will be taken
- In considering the potential impact of licensed premises on the surrounding locality the Licensing Authority, when in receipt of any Relevant Representations will take into account the type of entertainment activity proposed hours of operation, the capacity of the premises, the character of the areas and the proximity to local residents. Consideration will be given to the potential steps which could be taken to reduce the risk of nuisance occurring. This will particularly apply in areas where there is residential accommodation in the proximity of the premises. Para 9.2
- The Statement of Licensing Policy has a specific section relating to noise nuisance. This section is reproduced for the benefit of the sub-committee at appendix 3
- The Licensing Authority recognises that in addition to the requirements for it to promote the Licensing Objectives, the Council has a duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder within its area.
- 6.2 The objective of the licensing process is to allow the retail sale of alcohol and the provision of other Licensable Activities in a manner that ensures the public's safety and which is neither to the detriment of residents, nor gives rise to loss of amenity. It is the Licensing Authority's aim to facilitate well run and managed premises with

premises licence holders displaying sensitivity to the impact of their premises on local residents.

- 6.3 In accordance with the Guidance, the Licensing Authority does not regard this policy as a mechanism for the general control of anti-social behaviour by individuals once they have left the immediate vicinity of the licensed premises.
- 6.4 Recurring problems of alcohol-related anti-social behaviour, crime and disorder or serious public nuisance can occur in an area, which are not directly attributable to specific premises. In such cases, particularly if supported by the Police. . This section is reproduced for the benefit of the sub-committee at appendix 3

6.3 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.

7.0 Financial Implications

7.1 Not applicable.

8.0 Legal Implications

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 appropriate for the promotion of the licensing objectives. Section 18(4) provides that the authority may:

- (a) Grant the licence subject to the relevant mandatory conditions and conditions consistent with the operating schedule
- (b) Modify the application to such extent as the Authority considers appropriate for the promotion of the Licensing Objectives
- (c) Exclude from the scope of the licence any of the Licensable Activities to which the application relates
- (d) Refuse to specify a person in the licence as the Premises Supervisor
- (e) Reject the application.

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

8.3 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.

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 was initially received on the 27th February 2017. The application is for New 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

- 10.3 The hours applied for are as follows:

Sale and Supply of Alcohol - 0700 to 2300 Monday to Sunday.

- 10.4 A copy of the application form is attached as Appendix 1.

- 10.5 Relevant Representations are attached as Appendix 2.

Responsible Authorities:

- 10.8 Cheshire Police have supported the application

Other Persons:

- 10.6 The Council has received 7 objections to the application

10.7 Procedural Matters

- 10.7.1 In accordance with The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 the applicant is required to advertise the application, including the placing of pale blue notices at or near the premises for not less than 28 days. The reason for the placing of pale blue notices is to make members of the public aware of the application for a new premises licence.

- 10.7.2 Notices were displayed with the required information. However, the notice has changed to white from pale blue during the application consultation period. An inspection of the notice has been made by the Licensing Team on 09/03/2017 and the notice was pale blue. A further inspection following information provided by a member of the public to state the notice is displayed on white paper has been completed on 29/03/2017, and the applicant's agent has been informed. Photographs of the white notice are available to the Committee. It is the contention of the applicant's agent that the paper colour has faded.

10.7.3 The requirement to advertise blue notices at the premises for no less than 28 consecutive days at the premises may not have been fully complied with.

10.7.4 However, the case of R (on the application of Akin) v Stratford Magistrates Court [2014] EWHC 4633 (Admin) has recently dealt with the validity of notices and confirms that substantial compliance with the relevant regulations (is sufficient for the process to be deemed valid. This follows and reiterates previous case law concerning procedural defects.

10.7.5 In addition to the notices at the premises, notices were also displayed on the Council's website and in a local newspaper.

11.0 Access to Information

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

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APPENDICES

Appendix 1 – Premises Licence Application Form

Appendix 2 – Objections

Appendix 3 – Licensing Policy

Appendix 4 – Location plan of premises