

## **For publication**

### **Application for a New Premises Licence by Stephen Eyre, in respect of 5 Breckland Road, Walton, Chesterfield, Derbyshire, S40 4RW (LC170)**

---

Meeting:	Licensing Committee
Date:	10 <sup>th</sup> May, 2017 (Deferred from 3 <sup>rd</sup> May 2017)
Cabinet portfolio:	Health and Wellbeing
Report by:	Steve Ashby, Licensing Officer

---

## **For publication**

---

### **1.0 Purpose of report**

1.1 For Members to determine the application made by Stephen Eyre for a new premises licence in respect of

5 Breckland Road  
Walton  
Chesterfield  
Derbyshire  
S40 4RW.

1.2 Relevant representations have been made in respect of the application and not withdrawn. Consequently the application cannot be granted or refused under officer delegated authority.

### **2.0 Recommendation.**

That the Committee hear details of this license application and determine whether it is

- Granted
- granted with conditions
- or refused.

2.1 Copies of the Application Form and premises plan are attached to this report at Appendix 1.

### 3.0 **Report Details.**

3.1 The premise is a single storey retail unit, previously operated as a food takeaway premise.

It is situated on a small retail development that benefits from a limited number of parking bays, within a housing estate in the Walton suburb of Chesterfield.

3.2 The shop itself is the end unit of the development; other premises in the same location include One-stop (a licensed supermarket) and a post office.



Figure #1 – premises store front

The One Stop store has a terminal hour for alcohol sales of 2300 hours Monday to Saturday and 2230 hours on Sunday.

3.3 The retail development is sited on a bus route within a significant suburban housing estate.

Other nearby amenities include a community centre and Evangelical church.

There are service route bus stops on either side of the premises.



Figure #2 – aerial view of the premises.

3.4 As can be seen in the aerial photograph in figure #2, the premise has a loading bay to the rear, car parking to the front, with residential homes close to one side. There are further residential homes a little further away across the road at the front of the premises and numerous residential properties as distance from the unit increases.

#### 4.0 **Application**

4.1 The application received in Licensing on 14th March 2017 is for a Premises Licence to establish a "micropub" at 5 Breckland Road.

The application does not seek any licensable activity other than the sale and supply of alcohol, both on and off the premises.

- The hours applied for are 11.00 to 22.30 hours Monday to Saturday and 11.00 to 22.00 hours on Sunday.
- Non-standard timings of 11.00 hours on Christmas Eve to 01.00 hours on Christmas Day and 11.00 hours on New

Year's Eve to 02.00 hours on New Year's Day are also sought.

- Opening hours of the premises are identified in the application as 11.00 to 22.35 hours Monday to Saturday and 11.00 to 22.00 hours on Sunday.

- 4.2 Applications for a new Premises Licence are required to be advertised by way of an advert in the local press, a site notice displayed at the premises and copies of the application submitted to all Responsible Authorities.
- 4.3 A copy of the appropriate local press advert taken from the Derbyshire Times on Thursday 23<sup>rd</sup> March 2017 is attached at appendix 2.
- 4.4 The site notices displayed on the premises, advertising the application were viewed by licensing enforcement staff on 18<sup>th</sup> March 2017 and 1<sup>st</sup> April 2017 and found to be displayed correctly and completed appropriately.
- 4.5 The application was submitted on line through the internet and as such, the Chesterfield Borough Council Licensing Authority circulated a copy of the application to the responsible Authorities.
- 4.6 The statutory deadline for representation was 11<sup>th</sup> April 2017.

Responsible Authorities and Interested Parties are entitled to make representations to the Licensing Authority provided they are relevant.

A number of representations have been received and accepted from local residents, Derbyshire Police and Chesterfield Borough Council Licensing Authority in relation to one or more of the licensing objectives which are:-

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- protection of children from harm

Redacted copies of the letters of representation are shown at Appendices numbered 3 to 9.

- 4.7 The representations received from local residents regarding this application predominantly express concerns over:
- Late night noise
  - The disparity between the opening hour proposed by the applicant at the planning committee hearing and those in the premises licence application and the impact upon the four licensing objectives.
  - Concerns about customers drinking outside in warmer weather being noisy
  - Public health and safety concerns regarding smoking
  - Concerns about noise from bottle disposal and deliveries
  - A lack of parking
  - Litter
  - Previous antisocial behaviour problems at the same location and concerns that a public house would add to those issues.
  - The creation of a public house on a quiet residential estate where none had previously existed and the impact upon quiet family life.
  - The area in the vicinity of the premises currently used as a children's playing area, with a concern that children would be unnecessarily exposed to alcohol or intoxicated people.
- 4.8 The Police and Licensing authority representations refer to similar issues raised by the residents, expressing a concern that the licence application's operating schedule contains insufficient control measures to address those concerns.
- 4.9 Reference is made in the resident's representations to the planning application that allowed a change of use of the premises from hot food takeaway to licensed premises. The application, made in 2016 was determined in February 2017. The decision notice is attached at appendix 10.
- 4.10 Committee heard the planning application which attracted a 162 name petition opposing the plan as well as 36 individual letters, of which 22 made representations against the application and 14 supported it.
- 4.11 The concerns raised were very similar to those identified in this later premises licence application. There was some element of the

fear of the unknown, some reference to previous problems that had been prevalent historically at the location and included:-

- Anticipated noise nuisance when the premises would be in operation, supported by reference to historical noise nuisance and antisocial behaviour at the same location.
- Smoking presenting a health and safety concern and a fire risk
- Limited availability of car parking provision
- The introduction of a public house into a residential neighbourhood where none had previously existed
- Litter problems
- Concerns over personal safety
- Negative impact upon children in the area
- Exposing children to intoxicated individuals in a location where children regularly frequent
- Underage drinking
- Intimidating to older residents
- Extended opening hours
- Loud music
- Increased deliveries noise
- A development not in keeping with the local environment or the demographic of the area.

4.12 During the consultation phase of the planning application, Mr Eyre submitted a business plan to better identify the proposed activities at the venue. This appeared to allay concerns and saw the withdrawal of a representation made by local councillors.

4.13 A copy of the business plan can be seen at appendix 11.

4.14 Mr Eyre addressed a number of the representations by proffering the following explanations and clarity.

- An intention to provide a community real ale public house with the emphasis on the provision of a civilised, quality environment and products, thus deterring high volume consumption and poor behaviour.
- No intention to provide any music or entertainment
- An acknowledgment that although a licencing application would probably seek a licence for activities between 11.00 hours and 22.00 hours, the reality would probably be a premises that would be
  - Closed on Monday, Tuesday and Wednesday

- Open from 16.00 hours to 19.00 hours on Thursday and Friday
- Open 11.00 hours to 20.00 hours on Saturday
- And 11.00 hours to 19.00 hours on Sunday.
- Smokers would be encouraged to frequent the enclosed yard at the rear of the premises, thereby reducing the potential for noise nuisance to the nearby residents of Breckland Road and Foxbrook Court.
- The issue of litter would be addressed by way of the majority of consumables at the premises being recycled and with an intention not to sell cans, lessening the opportunity for them being carelessly discarded. Any accumulation of litter would be cleared.
- Rather than adding to the issue of antisocial behaviour, a later opening premise would reduce such behaviour by providing an extra presence to deter it.

4.15 The key issue here for the residents is the disparity between the business plan offered up in response to the planning committee hearing and the content of this new premises licence application.

4.16 As part of the application process the applicant is required to describe in the operating schedule the additional steps that are intended to be taken in order to promote the licensing objectives for the new premises licence that has been requested.

4.17 Under the Licensing Act 2003 these volunteered proposed steps will be attached to the premises licence as conditions which must be complied with. These are set out in Part M of the application form.

4.18 It can be seen that the licence application offers no assurance of the limited operating hours previously alluded to, which has clearly prompted some of the representations to be made.

4.19 The application does support other aspects of the business plan by stating:-

- The premises will cater for middle aged drinkers in an atmosphere of quiet surroundings. With no late opening hours there will be little chance that the premises will attract any crime or disorder. The premises will be well run and staff will have sufficient training to enable them to prevent any incidents in or around the premises.
- Notices will be posted reminding patrons to be quiet on leaving the premises.
- Glass bottles will only be transferred to external bins between 9am and 5pm.
- Smokers will be directed to use the rear yard.
- No children under the age of 18 will enter the premises unless accompanied by an adult. The premises will run an under 21 age policy.

## 5.0 **Conclusion**

- 5.1 When carrying out its licensing functions, the Licensing Authority must do so with a view to promoting the 4 licensing objectives and also with regard to its Statement of Licensing Policy and the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.
- 5.2 Where either the applicant or a person who made relevant representations is aggrieved by the decision of the Licensing Authority, appeal is to the Magistrates' Court.
- 5.3 As relevant representations have been made in respect of the application and not withdrawn, the application cannot be granted or refused under officer delegated authority.
- 5.4 The Licensing Committee is therefore asked to give consideration to the application and determine it by
- granting it as requested
  - granting it subject to conditions
  - or refusing the application.

Steve Ashby



LICENSING OFFICER

25.04.17

For more information on this report please contact the author,  
Steve Ashby on 01246 345780, email [steve.ashby@chesterfield.gov.uk](mailto:steve.ashby@chesterfield.gov.uk)