

**Bolsover District Council**

**Licensing & Gambling Acts Sub-Committee**

**5th August 2021**

**To hear representations made under the Licensing Act 2003**

**Report of the Joint Assistant Director for Environmental Health**

Classification: This report is public

Report By: Sian Harpham

Contact Officer: Sian Harpham

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**PURPOSE / SUMMARY**

To consider representations made against an Application for a Premises Licence for **RKNS Discount Stores, 17 Market Street, South Normanton, Alfreton, DE55 2AB.**

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**RECOMMENDATIONS**

The Licensing Sub-Committee may;

1. Grant the Premises Licence application as applied for;
2. Grant the Premises Licence application, modified to such an extent as the Authority considers appropriate for the promotion of the licensing objectives and any mandatory conditions; or
3. Refuse the Premises Licence application.

Approved by the Portfolio Holder – N/A

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**IMPLICATIONS**

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**Finance and Risk:** Yes  No

**Details:**

An appeal against this decision would incur costs in preparing a defence case and to attend Court. Costs may be recovered at the discretion of the Magistrates in the event that the application is dismissed. Costs could be awarded against the Authority in the event that the appeal is successful.

On Behalf of the Section 151 Officer

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**Legal (including Data Protection):** Yes  No

**Details:**

All parties have the right to make an appeal to the Magistrates' Court if they are not satisfied with the outcome/conduct of the hearing.

On Behalf of the Solicitor to the Council

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**Staffing:**    Yes             No

**Details:**

On behalf of the Head of Paid Service

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**DECISION INFORMATION**

| <b>Decision Information</b>   |                                     |
|---|-------------------------------------|
| <b>Is the decision a Key Decision?</b><br>A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:<br><br><b>BDC:</b><br>Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input checked="" type="checkbox"/><br><b>NEDDC:</b><br>Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/><br><input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i> | No                                  |
| <b>Is the decision subject to Call-In?</b><br>(Only Key Decisions are subject to Call-In)   | No                                  |
| <b>District Wards Significantly Affected</b>  | South Normanton West                |
| <b>Consultation:</b><br>Leader / Deputy Leader <input type="checkbox"/> Cabinet / Executive <input type="checkbox"/><br>SAMT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/><br>Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>  | Yes<br><br>Details:<br>Ward Members |

**Links to Council Ambition (BDC)/Council Plan (NED) priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.**

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## REPORT DETAILS

### 1 **Background** *(reasons for bringing the report)*

1.1 Bolsover District Council is responsible for the licensing and regulation of Premises Licences under the Licensing Act 2003. As part of those responsibilities the Licensing and Gambling Acts Sub-Committee is required to consider any application for a premises licence where valid representations have been received and not withdrawn.

1.2 The Licensing Act 2003 is clear that four statutory objectives, each of equal importance, must be addressed by the Council when discharging its functions under the legislation.

Those licensing objectives are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

1.2 In addition to the legislation, the Council must have regard to the Revised Guidance issued under section 182 of the Licensing Act 2003 and to the Council's own licensing policy.

1.3 The legislation and statutory guidance are clear that each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions.

1.4 A premises may only undertake licensable activities where it holds both planning permission and a premises licence to enable it to do so. Planning and Licensing are separate systems of regulatory control; planning deals with the use of the land, and licensing with the detailed operation of a premises where licensable activities take place. Similar considerations are likely to arise in both and there is overlap between the two, but each regime involves consideration of different, albeit related matters and each operate independently. The guidance provides that licensing committees are not bound by decisions made by a planning committee and vice versa.

1.5 In September 2018 the Council adopted a revised Licensing Act 2003 Policy. A number of paragraphs within the policy are relevant in this case. These paragraphs are set out below:

2.2 *In carrying out its licensing functions, the Licensing Authority must also have regard to the licensing objectives, its Policy Statement and any statutory guidance under the Act and is bound by The Human Rights Act*

1998. The Council must also fulfil its obligations under section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in Bolsover.

- 2.4 *Guidance on the Licensing Objectives is available on the Government's website at: <https://www.gov.uk/guidance/beer-licensing>*
- 2.5 *Licensing law is not the primary mechanism for the general control of antisocial behaviour by individuals once they are beyond the direct control of the individual club, or business holding the licence, certificate or permission concerned. Licensing is about the management of licensed premises and activities within the terms of the Act and conditions attached to various authorisations will be focused on matters which are within the control of the individual licence holder and others.*
- 4.2 *The granting of a licence, certificate or provisional statement will not override any requirement of the planning system or vice-versa. The licensing system will provide for the detailed control of operational matters, which are unlikely to be addressed through planning processes. However there will be overlapping issues of interest e.g. disturbance, which will remain material considerations for planning purposes as well as being relevant in terms of the licensing objectives. Applicants should also ensure that they have due regard to any planning restrictions on the use of premises when applying for licence/certification to avoid any possible enforcement action. Equally any planning approval for a premises does not imply that approval will be giving under the Licensing regime.*

Further information can be found in the Council's Licensing Act 2003 Policy.

## **2. Details of Proposal or Information**

- 2.1 On 14<sup>th</sup> June 2021, an application for a Premises Licence for **RKNS Discount Stores, 17 Market Street, South Normanton, Alfreton, DE55 2AB** was received by Bolsover District Council from **Flint Bishop LLP** acting on behalf of **Mrs Rachel Chandrakumar of 2 Kirkby Mill View, Kirkby-in-Ashfield, NG17 8QF**. A copy of the application is attached as **Appendix 1**.

2.2 The application seeks to licence the premises for the activities and times outlined in the table below.

| <b>Licensable Activity</b>         | <b>Proposed Times</b>            |
|------------------------------------|----------------------------------|
| Supply of Alcohol (Off Sales only) | Monday to Sunday: 07:00 to 22:00 |
| Opening Times                      | Monday to Sunday: 07:00 to 22:00 |

2.3 A copy of the proposed plan is attached at **Appendix 2**.

2.4 The application has been processed in line with the legislation and all Responsible Authorities were notified of this application.

2.5 The Licensing Team did not receive any formal representations from the Responsible Authorities. However, Derbyshire County Council's Trading Standards have held informal discussions with the applicant's agent without submitting a formal representation. As a result of these discussions the applicant's agent has requested that further conditions be added to the application. These conditions are attached as **Appendix 3** and the request to add them to the application is attached as **Appendix 4**.

2.6 The consultation deadline for this application was the 12<sup>th</sup> July 2021. By this time, the Licensing Team had received 1 valid representation from an individual member of the public, Mr Christopher Pienaar, which relates to all four of the licensing objectives. To support his representation, Mr Pienaar has also submitted a petition that includes 45 signatures from local residents. This representation and petition is attached as **Appendix 5**.

2.7 Upon receipt of this representation Mr Pienaar was notified that the petition attached to his representation would be treated as supporting evidence to the representation and as a result the Licensing Section would correspond solely with him as the lead to the petition.

2.8 This party has a legal right to make a representation.

2.9 As a result of the application being referred to the Licensing Sub-Committee, the applicant's agent has requested that a number of photos of the premises be included in the report, these photos are attached as **Appendix 6**.

### **3 Reasons for Recommendation**

Not applicable

### **4 Alternative Options and Reasons for Rejection**

Not applicable

## DOCUMENT INFORMATION

| Appendix No  | Title                                |
|--|--------------------------------------|
| 1  | Application for a premises licence   |
| 2  | Plan of premises                     |
| 3  | Additional conditions                |
| 4  | Request to add additional conditions |
| 5  | Representation and petition          |
| 6  | Photographs                          |
| <b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers) |                                      |
| None   |                                      |