

For publication

**Application for a New Premises Licence by The Birdcage
Chesterfield Ltd, in respect of
The Birdcage, 35 Derby Road, Chesterfield, S40 2EF**

Meeting:	Assistant Director – Health and Wellbeing <i>(Licensing Committee decision delegated to the Assistant Director – Health and Wellbeing under the emergency arrangements approved by Standards and Audit Committee on 19 March, 2020 and enacted by the Chief Executive on 20 March, 2020)</i>
Date:	Wednesday 29 th April, 2020 (deferred from 8 th April 2020)
Cabinet portfolio:	Health and Wellbeing
Report by:	Steve Ashby, Licensing Officer

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1.0 Purpose of report

- 1.1 To enable determination of the application made by Tim Vice on behalf of The Birdcage Chesterfield Ltd for a new premises licence in respect of

The Birdcage,
35 Derby Road,
Chesterfield,
S40 2EF.

1.2 Relevant representations have been made in respect of the application and not withdrawn.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

2.0 **Recommendation**

That the Committee hear details of this licence 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 and 2.

3.0 **Report Details**

3.1 The premise is a two-storey building, with a ground floor retail area and accommodation on the first floor. As can be seen from the photograph below, the premises previously operated as a corner shop and takeaway.



3.2 It is situated at the junction of A61, Derby Road and Lord Roberts Road.

Derby Road is a main arterial route through Chesterfield with high volumes of vehicle use, carrying commuters, public transport and commercial traffic.

Lord Roberts Road is an access only residential street. This means vehicular traffic on the street should be limited to residents and bona fide visitors to the premises thereon.

- 3.3 The photograph below shows the relevant location of the premise which whilst located on a busy road, is also surrounded by residential properties.



4.0 **Application**

- 4.1 The application received in Licensing on 21st February 2020 is for a Premises Licence to establish a licensed café at 35 Derby Road. The applicant describes it as a “Licensed coffee shop, serving hot and cold drinks as well as food.”
- 4.2 The application seeks the following licensable activities
- Sale and supply of alcohol (both on and off the premises) daily between 11.00 am and 11.00 pm.

- indoor sporting events, live and recorded music (indoors) daily between 07.00 am and 11.00 pm
- Non-standard timings are sought for all licensable activities and opening hours which states “Extend until 1am on days preceding bank holidays, on bank holidays and on boxing day and New Year’s Day”.
- Opening hours of the premises are identified as daily between 07.00 am and 11.00 pm.

4.3 Late night refreshment is also referred to in the initial part of the application form, but no licensable hours nor non-standard timings are sought in relation to the activity.

4.4 It is worth noting the current hours sought would not require a late-night refreshment permission in any case. The terminal hour for all activities at the premises ends at 11.00 pm and no licence is required for late night refreshment until after 11.00 pm.

4.5 It is also worth noting that indoor provision of live and recorded music is already permitted on licensed premises between 08.00 am and 11.00 pm by virtue of the Live Music Act of 2012.

Although permission for live and recorded music is sought between 07.00 am and 11.00 pm, only the period of 07.00 am to 08.00 am falls outside the scope of this legislation in this application.

4.6 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.

4.7 The appropriate local press advert appeared in the Derbyshire Times on Thursday 5th March 2020.

- 4.8 The site notices displayed on the premises, advertising the application were viewed by licensing enforcement staff on 25th February 2020 and found to be displayed correctly and completed appropriately.
- 4.9 The application was submitted online through the internet and as such, the Chesterfield Borough Council Licensing Authority circulated a copy of the application to the responsible Authorities.
- 4.10 The statutory deadline for representation was 20th March 2020. 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 and from Derbyshire Police 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 messages of representation are shown at Appendices numbered 3 to 11.

- 4.11 The representations received from local residents regarding this application express concerns over:
- The possibility of antisocial behaviour due to drink. The past history of bars in this area has shown this in the past.
 - The possibility of antisocial behaviour due to drugs
 - Concerns about litter (bottles, cans etc)
 - Those making representations report that parking is already an issue for the local residents and this premises would make things worse. Residents already struggle to park outside their own houses.

- Concerns about noise and loud music being played late at night and early in the morning. Particularly problematic for shift workers and those with young families.
- Increased traffic problems. Those making representations report that road is already a “rat run” with drivers trying to avoid congestion on Derby Road. It is also subject to parking by residents and visitors of other streets. Traffic would worsen with this application and with the number of parked cars on the street, there is always the possibility of a child running between cars and being injured.

4.12 The Police representation (Appendix 11) refers to the proposed operating schedule for the premises.

4.13 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.

4.14 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.

4.15 PC Hussain of Derbyshire Police submitted his representation stating, “It’s the opinion on Derbyshire police licensing that the operation schedule submitted does not adequately address the licensing objections in particular Crime and disorder and Prevent of Public Nuisance.”

4.16 PC Holden of Derbyshire police went on to identify three additional conditions that if added to the licence operating schedule would satisfy the police concerns. These were

- Under prevention of crime and disorder - SIA qualified door supervisors will be deployed on a risk assessed basis. Such risk assessments will be retained for a period of 3 years and will be produced to an officer of a responsible authority upon request.
- Under prevention of public nuisance - Alcoholic and other drinks may not be removed from the premises in open containers save for consumption in any external area provided for that purpose. Any such external consumption area will be supervised by premises staff.
- Under prevention of crime and disorder - CCTV is installed at the premises to cover the public areas of the premises. CCTV recording and images shall be retained for a period of 30 days and produced upon request to an officer of a Responsible Authority.

4.17 The applicant has agreed to these conditions being added to the licence. Should the committee agree to their addition to the operating schedule, this will satisfy any concerns the police have about the venue.

4.18 The applicant states he has recently written to a local resident to assure them of his intentions. He has supplied a copy of this letter which is included at appendix 12. He states that had he had the opportunity; this is what he would have told local residents.

4.19 In summary he describes a community hub type venue being operated sympathetically towards local residents with strict controls around behaviour and noise nuisance.

He goes on to say that he will be operating his own business from the adjacent premises and thus has a personal interest in making sure that this one does not cause nuisance or offence.

He concludes by saying that the property was always going to be a commercial enterprise and that his application is

probably far less intrusive than other uses for the property might have been.

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 consider the application and determine it by
 - granting it as requested
 - granting it subject to conditions
 - or refusing the application.

Steve Ashby
LICENSING OFFICER
31.03.2020

For more information on this report please contact the author,
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