

For publication

Application for a New Premises Licence by Chesterfield Borough Council in respect of Market Place and New Square, Chesterfield, S40 1AH.

Meeting:	Licensing Committee
Date:	Wednesday 13 th September 2023
Cabinet portfolio:	Health and Wellbeing
Report by:	Steve Ashby, Licensing Officer
Ward	All

For publication

1.0 Purpose of report

- 1.1 For Members to hear details of an application for a new premises alcohol licence made by Chesterfield Borough Council in respect of

Market Place and New Square,
Chesterfield,
S40 1AH.

and determine whether it be

- Granted
 - granted with modification
 - or refused.
- 1.2 A relevant representations have been made in respect of the application and not withdrawn. The application cannot be granted under officer delegated authority.

2.0 Premises Details.

- 2.1 The premise is an open air market place in the middle of Chesterfield town centre, maintained by Chesterfield Borough Council. The applicant describes it as a *"Market Place and open events area with capacity to accommodate market stalls, catering units and live/recorded performance event staging."*
- 2.2 There are retail and business units, including licensed venues, around the perimeter of the market place which also include some residential development.
- 2.3 The extent of the application, identified by the red line, is shown on the plan below. The plan is also attached at appendix A to this report.



3.0 Application Details

- 3.1 The application was accepted by the Licensing department on 2nd August 2023 and seeks a Premises Licence for the Market Place, New Square and the approach to the library. The Market Hall is excluded from the application.

- 3.2 The application seeks permission to conduct the following licensable activities daily from 0900 am to 2300 pm
- Sale and supply of alcohol on and off the premises
 - Films indoors and outdoors
 - Live and recorded music indoors and outdoors
 - Performance of dance indoors and outdoors
 - Anything of a similar description to live and recorded music and dance indoors and outdoors
- 3.3 The applicant has indicated that if the licence should be granted they would promote, and coordinate events taking place within the Market Place and New Square and may also permit third parties including other event/function/catering operators to conduct licensable activities within the Market Place and New Square under the terms of this licence.
- 3.4 As a control measure where a third party might use this space, the Local Authority has volunteered this additional condition

Where the venue is leased or hired out to a third party and

- *such agreement includes the performance of licensable activities authorised under the terms of this premises licence*
- *and no Chesterfield Borough Council staff responsible for the premises licence will be on site for the duration of the event nor have control of the event*

then the premises licence holder or venue manager will complete a written agreement with the third party wherein the third party acknowledges

- *the scope and limitations of the licence*
- *and any conditions they must adhere to, including the restrictions within the premises licence.*

4.0 **Application Process**

- 4.1 Applications for a new Premises Licence are required to be advertised by way of
- A notice in the local press,
 - a site notice displayed at the premises,
 - copies of the application submitted to the Responsible Authorities

- and details of the application posted on the Chesterfield Borough Council website.
- 4.2 A copy of the application form is attached at appendix B.
- 4.3 The application was advertised within the prescribed time limits, appearing in the Derbyshire Times on August 10th 2023. A copy of the advert is attached at appendix C.
- 4.4 The site notices displayed, advertising the application have been affixed to street furniture at each entrance to the area and around the site. They have been viewed continuously throughout the application period and found to be compliant with requirements.
- 4.5 The application was submitted on-line. The Licensing Department circulated a copy to the Responsible Authorities.
- 4.6 The application has been posted on the Local Authority licensing web page.
- 4.7 The statutory deadline for representations was 30th August 2023.
- 4.8 Responsible Authorities and Interested Parties (which includes persons or bodies representative of businesses or residents in the vicinity of the premises) are entitled to make representations to the Licensing Authority provided they are relevant representations.
- 4.9 To be relevant, the representation must be made 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
 - the protection of children from harm
- 4.10 The application itself is somewhat unusual in nature. The Licensing Team felt that such an application was unprecedented in the locality.
- The Local Authority is applying to it's own Licensing Department for a premises alcohol licence.
 - The proposed licensed area is a significant outdoor space.

- The application includes third party use of the licence permissions.
- There was potential conflict between the application and the provisions of the Chesterfield Town Centre Public Spaces Protection Order.

Thus the application was deserving of a greater level of scrutiny.

4.11 The concern in relation to the PSPO was the conflict between operating a licensed venue in the town centre and the provisions of the Public Spaces Protection Order which apply there. A copy of the PSPO is attached at appendix E.

4.12 The PSPO bans

- loitering around cash machines, shopping centre entrances, shop entrances, car park ticket machines and payment machines to beg for money.
 - urinating or defecating anywhere that is not in a public toilet.
 - putting up or using a tent or other temporary structure without the landowner's permission.
 - leaving any personal belongings unattended.
 - any activity or behaviour which causes nuisance, alarm, harassment to distress to another person.
- and
- Enables the police or other authorised enforcement officers to make anyone found drinking alcohol, on the streets within the town centre, hand over open or unopened alcohol tins or bottles.

4.13 The licensing team sought legal advice in relation to the application, seeking clarification around the PSPO issue and a greater level of scrutiny.

4.14 The legal advice received identified

- The need for transparency and formality.
- The application should be processed and considered in the same way as any other application.
- There should be consideration of the conflict between the application and the Public Spaces Protection Order.

- Consideration should be given for referring such applications to the Licensing Committee to provide a greater level of scrutiny.
- That any representations received be given the appropriate level of scrutiny.

4.15 No representation has been received from a Responsible Authority.

4.16 Derbyshire Police raised a concern in respect of the sale and supply of alcohol in this area as it might impact detrimentally upon the public space protection order already in place there. The applicant and the Police discussed the issue and agreed upon a mutually acceptable additional condition to be added to the licence for events on site where alcohol sales would take place.

The user of the premises will complete an event management plan where alcohol is to be sold or supplied by way of "on" sales.

- *The plan will form part of the contract between the premises licence holder and user of the premises.*
- *The plan will be completed and shared with Derbyshire Police Licensing, as well as the premises licence holder no less than 14 days before any such event.*
- *The plan will be retained by the licence holder for a period of three years.*
- *The plan will be made available to an officer of a Responsible Authority by the premises licence holder or premises user upon reasonable request.*

The premises user is identified as the operator of alcohol sales provision under the terms of this licence.

The event management plan will consider the event arrangements in the context of

- *the current Health & Safety Executive's Purple Guide which provides guidance for event managers*
- *and the current Chesterfield Borough Council Public Spaces Protection Order for Chesterfield Town Centre.*

Of particular consideration will be

- *Toilet provision*
- *The impact of on-street drinking*

- *The risk assessed deployment of door supervisors and/or Chesterfield Borough Council staff.*
- *The provision of fencing or barriers intended to deter open containers of alcohol being taken from the site.*

4.17 The Police concerns in this respect were allayed with the addition of the negotiated condition relating to events in the town centre using the proposed licence where "on sales" would be permitted.

4.18 A representation has been received from a Chesterfield resident and a copy is included at appendix D.

4.19 The representation addresses the following issues

The prevention of crime and disorder

- Litter, broken glass, and glass bottles, take-away containers and rubbish discarded by premises users and drunkards on the way home from licenced premises.

Public safety

- Alcohol is one of the most toxic substances a human body can ingest. The consumption of alcohol puts the user at risk of accidents and ill health. The council has a responsibility to uphold safety standards and prevent accidents occurring.

The prevention of public nuisance

- What decibel levels are permitted?
- Residents out of the town can hear the ruckus at home of activity at licenced premises in the town centre.

Protection of children from harm

- Having alcohol available while showing a film or at a music venue whilst children are present.
- Will children be present whilst alcohol is available to the parents or guardians of the children. If so, by the council allowing the sale of alcohol whilst parents and guardians are intoxicated it will put children at risk.

5.0 The licensing objectives, guidance and policy

- 5.1 When carrying out its licensing functions in relation to this application, the Committee must do so in accordance with the provisions contained in the Licensing Act 2003 and with a view to promoting the licensing objectives.
- Prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - Protection of children from harm.
- 5.2 The Committee must have regard to its Statement of Licensing Policy and the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.
- 5.3 Where either the applicant or a person who has made relevant representations is aggrieved by the decision of the Licensing Authority, appeal is to the Magistrates' Court.

6.0 **Recommendation**

- 6.1 That the Committee
- Apply the appropriate level of scrutiny to this premises licence application, given its unique nature
 - Consider
 - the details and impact of the new premises licence application,
 - the concerns identified in the legal advice sought,
 - the impact of the application upon the Public Spaces protection Order and
 - the concerns raised in the representation received
 - Consider whether the negotiated condition between Chesterfield Borough Council and Derbyshire Police Licensing be added should the premises licence application be granted
 - and determine whether the application made by
 - Chesterfield Borough Council
 - In respect of Market Place and New Square, Chesterfieldbe granted, granted with modification or refused.

Steve Ashby

LICENSING OFFICER

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