

Licensing Act Sub-Committee

Agenda

Date:	Wednesday, 9th August, 2023
Time:	2.00 pm
Venue:	Committee Suite 2, Westfields, Middlewich Road, Sandbach. CW11 1HZ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and in the report.

It should be noted that Part 1 items of Cheshire East Council decision-making meetings are audio recorded and the recordings are uploaded to the Council's website.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT (Pages 3 - 6)

1. Appointment of Chairman

To appoint a Chairman for the meeting.

2. Declarations of Interest

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda and for Members to declare if they have pre-determined any item on the agenda.

**3. Determination of an Objection to a Temporary Event Notice - Proper Sound,
8 Chestergate, Macclesfield, SK11 6BA (Pages 7 - 34)**

To consider the above application.

Membership: Councillors R Kain, L Smetham and J Wray

For requests for further information

Contact: Jennifer Ashley

Tel: 01270 685705

E-Mail: Jennifer.ashley@cheshireeast.gov.uk

CHESHIRE EAST COUNCIL

Procedure for Hearings – Licensing Act 2003**The Licensing Committee**

The full Licensing Committee consists of fifteen elected Members of the Council. From this full Committee will be drawn sub-committees of three members to deal with licensing functions under the Licensing Act 2003. The Chairman and Vice Chairman of the Licensing Committee shall have the discretion to refer a matter up to a hearing of the full Licensing Committee.

Officers at Hearings

- **The Committee Officer** introduces all parties and records the proceedings
- **The Legal Adviser** provides independent advice to the Members on legal matters and procedure.
- **The Licensing Officer** will introduce the matter and outline the application; the officer will also answer any questions Members may have.

PROCEDURE

NOTE: If the Sub-Committee has not already elected a Chairman, that will be the first item of business.

1	Chairman	The Chairman will: (i) call the matter to be considered (ii) call for any declarations of interest (iii) ask all parties to introduce themselves (iv) summarise the procedure to be followed at the hearing (v) will consider any request made by a party for another person to appear at the hearing (v) will advise the parties of any maximum period of time in which it has to present its case (if a maximum is imposed this shall be equal for all parties)
2	Licensing Officer	Will introduce and summarise the application, highlighting areas of contention or dispute.
3	Committee Members	May ask questions of the Licensing Officer
4	Applicant	Will present his/her case, calling witnesses, as appropriate. <i>(If necessary, applicant will produce any notices required by law. Legal Adviser will draw attention to this if required.)</i>

5	Responsible Authorities (who have made representations)	Each in turn may ask <u>questions</u> of the applicant, by way of clarification.
6	Other Persons (who have made representations)	To be invited to ask <u>questions</u> of the applicant, by way of clarification. <i>It is normal practice for a spokesperson only to speak on behalf of a group of residents.</i>
7	Committee Members	Each in turn may ask <u>questions</u> of the applicant.
8	Applicant	May make a <u>statement</u> or ask his witnesses to clarify any matters which he feels are unclear, or may have been misunderstood.
9	Responsible Authorities	Will make their representations.
10	Applicant	Or his representative or witnesses to ask <u>questions</u> of Responsible Authorities represented at the meeting, by way of clarification.
11	Other Persons (who have made representations)	May ask <u>questions</u> of the Responsible Authorities represented at the meeting, by way of clarification. (Note: This is not the point at which they should be stating their objections.)
12	Committee Members	May ask <u>questions</u> of the Responsible Authorities represented at the meeting
13	Other Persons (who have made representations)	Those who have objected to the application will be invited <u>to make observations on the application</u> and present the bases of their objections.
15	Applicant	Or his representative or witnesses may ask <u>questions</u> of the other persons, by way of clarification.
16	Committee Members	May ask <u>questions</u> of the other persons.
17	Chairman	To invite both Responsible Authorities and Other Persons to make their closing addresses.

18	Applicant	Or his representative will <u>briefly summarise the application</u> and comment on the observations and any suggested conditions.
19	Committee	<u>Will retire</u> to consider the application. The Committee may request the Legal Advisor to advise on legal issues.
20	Committee	Will return to <u>give its decision</u> , with reasons, which will be announced by the Chairman and subsequently confirmed in writing to the applicant and to all the parties that made representations. In cases where a decision cannot be given at the end of the hearing, parties will be advised of the decision within five working days.

Notes

1. The hearing shall normally be held in public. There may be occasions on which the Committee find it necessary to exclude members of the press and public; any such decision will be taken on the basis that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public.
2. The Chairman may require any person behaving in a disruptive manner to leave the hearing and may (a) refuse to permit that person to return, or (b) permit him/her to return only on such conditions as the authority may specify, but any such person may submit in writing any information which they would have been entitled to provide orally if they had not been required to leave.
3. Prior to the hearing each party shall have given notification and served documentation (eg statements of witnesses or reports of experts) as required. Late representations and evidence will only be considered with the agreement of all parties.
4. Anyone entitled to be heard may be represented by any person, whether or not that person is legally qualified.
5. Hearsay will be permitted but the Sub-Committee will be reminded to give it appropriate weight.
6. Due note shall be taken of the provisions of the Hearings Regulations 2005.
7. The Chair may, in the interests of expediency or convenience of the parties, vary the procedure from time to time, provided notice is given to the parties and the rules of natural justice are observed.

Summary of Procedure

1. Chairman appointed (if this has not been done previously).
2. Chairman to call for declarations of interest and request that all parties introduce themselves.
3. Chairman summarises the procedure for the hearing
4. The Licensing Officer summarises the application
5. Applicant to present his/her case.
6. Applicant to be questioned by all parties (to clarify points only) following which, he/she can clarify any other matters which he/she feels may have been misunderstood when the application was presented.
7. Applicant to be questioned by the Committee.
8. Responsible Authorities to make their representations following which they can be questioned by all parties by way of clarification.
9. Other Persons will be invited to present the bases of their objections, following which they can be questioned by all parties by way of clarification.
10. The applicant will be invited to sum up his/her case
11. Committee/Sub-Committee withdraws to make its decision
12. Committee/Sub-Committee returns to announce its decision to all present.

Temporary Event Notice

Before completing this notice, please read the guidance notes at the end of the notice. If you are completing this notice by hand, please write legibly in block capitals. In all cases, ensure that your answers are inside the boxes and written in black ink or typed. Use additional sheets if necessary. You should keep a copy of the completed notice for your records. You must send at least one copy of this notice to the licensing authority and additional copies must be sent to the chief officer of police and the local authority exercising environmental health functions for the area in which the premises are situated. The licensing authority will give to you written acknowledgement of the receipt of the notice.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

1. The personal details of premises user (Please read note 1)			
1. Your name			
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname	wright		
Forenames	lucie		
2. Previous names (Please enter details of any previous names or maiden names, if applicable. Please continue on a separate sheet if necessary)			
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname	thomas		
Forenames	lucie		
3. Your date of birth		Day <input type="text"/>	Month <input type="text"/> Year <input type="text"/>
4. Your place of birth		<input type="text"/>	
5. National Insurance Number		<input type="text"/>	
6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box below)			
11 loney st Macclesfield cheshire			
Post town macclesfield		Postcode sk11 8ep	
7. Other contact details			
Telephone numbers Daytime	<input type="text"/>		
Evening (optional)			
Mobile (optional)			
Fax number (optional)			
E-Mail address (if available)	propersound.info@gmail.com		
8. Alternative address for correspondence (If you complete the details below, we will use this address to correspond with you)			

Proper sound 8 chestergate	
Post town macclesfield	Postcode SK116BA
9. Alternative contact details (if applicable)	
Telephone numbers: Daytime	
Evening (optional)	
Mobile (optional)	
Fax number (optional)	
E-Mail address (if available)	propersound.info@gmail.com

2. The premises	
Please give the address of the premises where you intend to carry on the licensable activities or, if it has no address, give a detailed description (including the Ordnance Survey references) (Please read note 2)	
Proper sound 8 chestergate Macclesfield SK116BA	
Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)? If so, please enter the licence or certificate number below.	
Premises licence number	PREM1349
Club premises certificate number	
If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)	
Please describe the nature of the premises below. (Please read note 4)	
Café/bar	
Please describe the nature of the event below. (Please read note 5)	
music event	

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3. The licensable activities		
Please state the licensable activities that you intend to carry on at the premises (please tick all licensable activities you intend to carry on). (Please read note 6)		
The sale by retail of alcohol	<input type="checkbox"/> yes	
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club	<input type="checkbox"/> na	
The provision of regulated entertainment (Please read note 7)	<input type="checkbox"/> yes	
The provision of late night refreshment	<input type="checkbox"/> yes	
Are you giving a late temporary event notice? (Please read note 8)	<input type="checkbox"/> no	
Please state the dates on which you intend to use these premises for licensable activities. (Please read note 9)	12/08/23	
Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 10)		
1200-2230		
Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 11)	70	
If the licensable activities will include the sale or supply of alcohol, please state whether these will be for consumption on or off the premises, or both (please tick as appropriate). (Please read note 12)	On the premises only	<input type="checkbox"/> yes
	Off the premises only	<input type="checkbox"/>
	Both	<input type="checkbox"/>

<p>Please state if the licensable activities will include the provision of relevant entertainment. If so, please state the times during the event period that you propose to provide relevant entertainment (including, but not limited to lap dancing and pole dancing). (Please see note 13)</p> <p>Dj to play music 4 till 10.30</p>

4. Personal licence holders (Please read note 14)		
Do you currently hold a valid personal licence? (Please tick)	Yes <input type="checkbox"/> yes	No <input type="checkbox"/>
If "Yes" please provide the details of your personal licence below.		
Issuing licensing authority	warwick District council	
Licence number	[REDACTED]	
Date of issue	29/11/2006	
Any further relevant details		

5. Previous temporary event notices you have given (Please read note 15 and tick the boxes that apply to you)		
Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice?	Yes <input type="checkbox"/> yes	No <input type="checkbox"/>
If answering yes, please state the number of temporary event notices (including the number of late temporary event notices, if any) you have given for events in that same calendar year	1	
Have you already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input type="checkbox"/> no

6. Associates and business colleagues (Please read note 16 and tick the boxes that apply to you)		
Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	Yes <input type="checkbox"/>	No <input type="checkbox"/> no
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your associate(s) have given for events in the same calendar year.		
Has any associate of yours already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input type="checkbox"/> no
Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	Yes <input type="checkbox"/>	No <input type="checkbox"/> no

If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your business colleague(s) have given for events in the same calendar year.		
Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input type="checkbox"/> no

7. Checklist (Please read note 17)	
I have: (Please tick the appropriate boxes, where applicable)	
Sent at least one copy of this notice to the licensing authority for the area in which the premises are situated	<input type="checkbox"/>
Sent a copy of this notice to the chief officer of police for the area in which the premises are situated	<input type="checkbox"/>
Sent a copy of this notice to the local authority exercising environmental health functions for the area in which the premises are situated	<input type="checkbox"/>
If the premises are situated in one or more licensing authority areas, sent at least one copy of this notice to each additional licensing authority	<input type="checkbox"/>
If the premises are situated in one or more police areas, sent a copy of this notice to each additional chief officer of police	<input type="checkbox"/>
If the premises are situated in one or more local authority areas, sent a copy of this notice to each additional local authority exercising environmental health functions	<input type="checkbox"/>
Made or enclosed payment of the fee for the application	<input type="checkbox"/>
Signed the declaration in Section 9 below	<input type="checkbox"/>

8. Condition (Please read note 18)
It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the sale or supply of alcohol that all such supplies are made by or under the authority of the premises user.

9. Declarations (Please read note 19)	
The information contained in this form is correct to the best of my knowledge and belief.	
I understand that it is an offence: (i) to knowingly or recklessly make a false statement in or in connection with this temporary event notice and that a person is liable on summary conviction for such an offence to a fine of any amount; and (ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on summary conviction for any such offence to a fine of any amount, or to imprisonment for a term not exceeding six months, or to both.	
Signature	L wright

Date	27/07/2023
Name of Person signing	l wright

For completion by the licensing authority

10. Acknowledgement (Please read note 20)	
I acknowledge receipt of this temporary event notice.	
Signature	On behalf of the licensing authority
Date	
Name of Officer signing	

Notes for Guidance

General

In these notes, a person who gives a temporary event notice is called a “premises user”.

The police and local authority exercising environmental health functions may intervene on the grounds of any of the four licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm) to prevent the occurrence of an event at which permitted temporary activities are to take place or to agree a modification of the arrangements for such an event. However, the licensing authority will intervene of its own volition in the cases described below.

First, it will issue a counter notice if there is an objection to a late temporary event notice (see note 8 below).

Secondly, it may issue a notice in relation to its decision to impose conditions on a temporary event notice (see note 2 below).

Thirdly, it will issue a counter notice if the first, second, third and fifth of the limits set out below would be exceeded. If any of the limits below are breached or if a counter notice has been issued, any licensable activities taking place would be unauthorised and the premises user would be liable to prosecution. The limitations apply to:

- the number of times a person may give a temporary event notice (50 times per year for a personal licence holder and 5 times per year for other people);
- the number of times a person may give a late temporary event notice (10 times per year for a personal licence holder and 2 times per year for other people);
- the number of times a temporary event notice may be given in respect of any particular premises (15 times, or for events occurring partly or wholly in 2022 or 2023, 20 times a calendar year);
- the length of time a temporary event may last for these purposes (168 hours or 7 days);
- the maximum aggregate duration of the periods covered by temporary event notices at any individual premises (21 days or, for event periods (or any part of these periods) occurring in 2022 or 2023, 26 days per calendar year); and
- the scale of the event in terms of the maximum number of people attending at any one time (a maximum of 499).

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count towards those totals. The limits applying to late temporary event notices are included within the overall limits applying to the total number of temporary event notices. Note 16 below sets out the definition of an “associate”.

When permitted temporary activities take place, a premises user must ensure that either:

- a copy of the temporary event notice is prominently displayed at the premises; or
- the temporary event notice is kept at the premises either in his own custody or in the custody of a person present and working at the premises and whom he has nominated for that purpose.

Where the temporary event notice is in the custody of a nominated person, a notice specifying that fact and the position held by that person must be displayed prominently at the premises.

Where the temporary event notice or a notice specifying the nominated person is not displayed, a constable or an authorised person (for example, a licensing officer, fire officer or environmental health officer) may require the premises user to produce the temporary event notice for examination. Similarly, where the nominated person has the temporary event notice in his custody, a constable or authorised person may require that person to produce it for examination. Failure to produce the temporary event notice without reasonable excuse would be an offence.

It should also be noted that the following, among other things, are offences under the Licensing Act 2003:

- the sale or supply of alcohol to children under 18 years of age (subject to an unlimited fine on conviction);
- allowing the sale of alcohol to children under 18 (subject to an unlimited fine on conviction);
- knowingly allowing the consumption of alcohol on the premises by a person aged under 18 (subject to an unlimited fine, on conviction);
- allowing disorderly behaviour on the premises (subject to a fine not exceeding level 3 on the standard scale, on conviction);
- the sale of alcohol to a person who is drunk (subject to a fine not exceeding level 3 on the standard scale, on conviction);
- obtaining alcohol for a person who is drunk (subject to a fine not exceeding level 3 on the standard scale, on conviction);
- knowingly allowing a person aged under 18 to make any sale or supply of alcohol unless the sale or supply has been specifically approved by the premises user or any individual aged 18 or over who has been authorised for this purpose by the premises user (subject to a fine not exceeding level 1 on the standard scale, on conviction); and
- knowingly keeping or allowing to be kept on the premises any smuggled goods which have been imported without payment of duty or which have otherwise been unlawfully imported (subject to a fine not exceeding level 3 on the standard scale, on conviction).

In addition, where the premises are to be used primarily or exclusively for the sale or supply of alcohol for consumption on the premises, it is an offence to allow children under 16 to be present when the premises are open for that purpose unless they are accompanied by an adult. In the case of any premises at which sales or supplies of alcohol are taking place at all, it is an offence for a child under 16 to be present there between the hours of midnight and 5am unless accompanied by an adult. In both instances, the penalty on conviction is a fine not exceeding level 3 on the standard scale, currently £1,000.

Note 1

A temporary event notice may only be given by an individual and not, for example, by an organisation or club or business. The individual giving the notice is the proposed “premises user”. Within businesses, clubs or organisations, one individual will therefore need to be identified as the proposed premises user.

If you include an e-mail address in section 1(7) or 1(9), the licensing authority may send to this the acknowledgement of receipt of your notice or any notice or counter notice it is required to give under sections 104A, 106A or 107 of the Licensing Act 2003.

Note 2

For the purposes of the Licensing Act 2003, “premises” means any place. Premises will therefore not always be a building with a formal address and postcode. Premises can include, for example, public parks, recreation grounds and private land.

If a premises licence or club premises certificate has effect in relation to the premises (or any part of the premises) which you want to use to carry on licensable activities, it is possible that any conditions which apply to the licence or certificate may be imposed on the temporary event notice if certain pre-conditions are met. These pre-conditions are that the police or the local authority exercising environmental health functions object to the notice and the licensing authority decides:

- not to give a counter notice under section 105 of the Licensing Act 2003;
- the conditions apply to the licence or certificate; and
- the imposition of the conditions on the notice would not be inconsistent with the carrying on of the licensable activities under the notice.

Note 3

A temporary event notice can be given for part of a building, such as a single room or a plot within a larger area of land. You should provide a clear description of the area in which you propose to carry on licensable activities. This is important as any licensable activities conducted outside the area of the premises protected by the authority of this temporary event notice would be unlawful and could lead to prosecution.

In addition, when holding the proposed event, the premises user would need to be able to restrict the number of people on the premises at any one time when licensable activities are taking place to less than 500. If more than 499 are on the premises when licensable activities are being carried on, the licensable activities would be unlawful and the premises user would be liable to prosecution. The maximum figure of 499 includes, for example, staff, organisers, stewards and performers.

Note 4

A description of the nature of the premises assists the chief officer of police and local authority exercising environmental health functions in deciding if any issues relating to the licensing objectives are likely to arise. You should state clearly that the premises to be used are, for example, a public house, a restaurant, an open field, a village hall or a beer tent.

Note 5

A description of the nature of the event similarly assists the chief officer of police and local authority exercising environmental health functions in making a decision as to whether or not to make an objection. You should state clearly that the event taking place at the premises would be, for example, a wedding with a pay bar, the supply of beer at a particular farmers’ market, a discotheque, the performance of a string quartet, a folk group or a rock band.

Note 6

The licensable activities are:

- the sale by retail of alcohol;
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of a club;
- the provision of regulated entertainment; and
- the provision of late night refreshment.

Note 7

Regulated entertainment, subject to specified conditions and exemptions, includes:

- (a) a performance of a play;
- (b) an exhibition of a film;
- (c) an indoor sporting event;
- (d) a boxing or wrestling entertainment;
- (e) a performance of live music;
- (f) any playing of recorded music;
- (g) a performance of dance; and
- (h) entertainment of a similar description to that falling within (e), (f) or (g).

In terms of specific regulated entertainments please note that:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community

- premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
- any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- i. Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
- any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

If you are uncertain whether or not the activities that you propose are licensable, you should contact your licensing authority for further advice.

Note 8

Late notices can be given no later than 5 working days but no earlier than 9 working days before the event in relation to which the notice is given. A late notice given later than 5 working days before the event to which it relates will be returned as void and the activities described in it will not be authorised.

The number of late notices that can be given in any one calendar year is limited to 10 for personal licence holders and 2 for non-personal licence holders. These count towards the total number of temporary event notices (i.e. 50 temporary event notices per year for personal licence holders and 5 temporary event notices for non-personal licence holders).

If there is an objection from either the police or local authority exercising environmental health functions, the event will not go ahead and a counter notice will be issued.

Note 9

The maximum period for using premises for licensable activities under the authority of a temporary event notice is 168 hours or seven days.

Note 10

You should state here the times during the event period, for example 48 hours, when you intend to carry on licensable activities. For example, you may not intend to carry on licensable activities throughout the entire 48 hour event period, and may intend to sell alcohol between 8.00 hrs and 23.00 hrs on each of the two days.

Note 11

No more than 499 may be on the premises for a temporary event at any one time when licensable activities are being carried on. If you intend to have more than 499 attending the event, you should obtain a premises licence for the event. Your licensing authority should be able to advise

you. The maximum figure of 499 includes not only the audience, spectators or consumers but also, for example, staff, organisers, stewards and performers who will be present on the premises.

Note 12

If you indicate that alcohol will be supplied only for consumption on the premises, you would be required to ensure that no person leaves the premises with alcohol supplied there. If such a supply takes place, the premises user may be liable to prosecution for carrying on an unauthorised licensable activity. Similarly, if the premises user gives notice that only supplies of alcohol for consumption off the premises will take place, he/she must ensure that alcohol supplied is not consumed on the premises. The premises user is free to give notice that he/she intends to carry on both types of supplies. For this purpose, the supply of alcohol includes both of the first two licensable activities listed in note 6 above.

Note 13

Relevant entertainment is defined in the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) as *any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)*. Relevant entertainment therefore includes, but is not limited to, lap dancing and pole dancing.

The 1982 Act requires premises which provide relevant entertainment to be licensed under that Act for this purpose. Premises at which there have not been more than eleven occasions on which such entertainment has been provided within a period of 12 months, no such occasion has lasted for more than 24 hours and there has been a period of at least one month between each such occasion are exempt from the requirement to obtain a licence under the 1982 Act. Such premises are likely instead to require an authorisation under the Licensing Act 2003 to be used for such activities as these are a licensable activity (the provision of regulated entertainment — see note 6 above). A temporary event notice may be given for this purpose.

Note 14

The holder of a valid personal licence issued under the Licensing Act 2003 may give up to 50 temporary event notices in any calendar year subject to the other limitations in the 2003 Act. A proposed premises user who holds such a licence should give the details requested.

Note 15

As stated under Note 14, a personal licence holder (issued under the Licensing Act 2003) may give up to 50 temporary event notices (including 10 late notices) in any calendar year. An individual who does not hold a personal licence may only give 5 temporary event notices (including 2 late notices) in England and Wales in any calendar year. A calendar year is the period between 1st January to 31st December inclusive in any year.

If an event straddles two calendar years, it will count against the limits on temporary event notices for each year. However, only one notice needs to be given. The limits are:

- i. for event periods occurring wholly or partly in 2022 or 2023, up to 20 times in the calendar year for each premises;
- ii. for other event periods, 15 times in a calendar year for each premises;
- iii. for event periods (or any part of a period) occurring in 2022 or 2023, 26 days in the calendar year for each premises;
- iv. for other event periods, 21 days in a calendar year for each premises;
- v. 50 per personal licence holder each calendar year; and
- vi. 5 for non-holders each calendar year

For the purposes of determining the overall limits of 50 temporary event notices per personal licence holder (in a calendar year) and of 5 for a non-personal licence holder (in a calendar year), temporary event notices given by an associate or a person who is in business with a premises user

(and that business involves carrying on licensable activities) count towards those totals. Note 16 below sets out the definition of an “associate”.

If a temporary event notice has been given for the same premises, by the same premises user, and would have effect within 24 hours before the start of the event period under the current proposal or within 24 hours after the end of that period, the temporary event notice given would be void and any licensable activities carried on under it would therefore be unlicensed.

For the purposes of determining whether or not the required gap of 24 hours is upheld, temporary event notices given by an associate or a person who is in business with a premises user (and that business involves carrying on licensable activities) count as if they had been given by the premises user. Note 16 below sets out the definition of an “associate”.

Note 16

An “associate” of the proposed premises user is:

- a. the spouse or civil partner of that person;
- b. a child, parent, grandchild, grandparent, brother or sister of that person;
- c. an agent or employee of that person; or
- d. the spouse or civil partner of a person within (b) or (c).

For these purposes, a person living with another as that person’s husband or wife is to be treated as that person’s spouse.

Note 17

It is a requirement that you send at least one copy of this notice to the licensing authority at least ten working days (or five working days for a late notice) before the commencement of the proposed licensable activities. The authority will give you written acknowledgement of the receipt of the notice. This will be important proof that you gave the notice and when you gave it for the purposes of the Act. Some premises may be situated in two licensing authority areas, for example, where a building or field straddles the local authority boundary. Where this is the case, at least one copy of the notice must be sent to each of the licensing authorities identified, together with the appropriate fee in each case. In such circumstances, you will receive acknowledgements from all the relevant licensing authorities.

One copy must be sent to each of the chief officer of police and the local authority exercising environmental health functions for the area in which the premises is situated at least ten working days for a standard notice (or five working days for a late notice) before the commencement of the proposed licensable activities. Where the premises are situated in two police areas or environmental health areas, a further copy will need to be sent to the further police force and local authority exercising environmental health functions.

Note 18

Under the Licensing Act 2003, all temporary event notices are given subject to a mandatory condition requiring that where the licensable activities involve the supply of alcohol, all such supplies must be made by or under the authority of the named premises user. If there is a breach of this condition, the premises user and the individual making the supply in question would be liable to prosecution. For this purpose, the supply of alcohol includes both of the first two licensable activities listed in note 6 above.

Note 19

It is an offence knowingly or recklessly to make a false statement in, or in connection with, a temporary event notice. (A person is to be treated as making a false statement if he produces, furnishes, signs or otherwise makes use of a document that contains a false statement.) To do so could result in prosecution and an unlimited fine.

Note 20

You should not complete section 10 of the notice, which is for use by the licensing authority. It may complete this section as one means of giving you written acknowledgement of its receipt of the notice.

EVANS, Kim

From: LOMAS, Brenda
Sent: 27 July 2023 17:14
To: LICENSING (Cheshire East)
Cc: PRESTON, Margaret
Subject: Objection to a TEN - Application Reference cheshire-east 142084 - Proper Sound, 8 Chestergate, Macclesfield

Follow Up Flag: Follow up
Flag Status: Completed

Dear Licensing

This Service wishes to raise an objection to the Temporary Event Notice which has been submitted by Ms Lucie Wright in respect of the premises known as, Proper Sound, 8 Chestergate, Macclesfield, SK11 6BA. Application reference cheshire-east 142084

The objection is raised under the Licensing Objective of the 'prevention of public nuisance'.

The application is for a music event to be held on 12th August 2023 and which involves a DJ to play amplified music.

Residential properties directly adjoin the application premises. The noise from loud DJ music has previously been witnessed by myself to transmit to the residential properties via internal and external routes resulting in an unacceptable impact / noise nuisance being caused to the residents.

In respect of this application for a TENS – it is considered that the noise from loud amplified music as played by a DJ, will inevitably cause noise nuisance to the residents of the adjoining dwellings - and hence the reason that the objection is raised.

Yours sincerely

Brenda Lomas | Cheshire East Council
Enforcement Officer, Public Protection & Health, Regulatory Services,
Town Hall, Market Place, Macclesfield.
c/o Municipal Buildings, Earle Street, Crewe, CW1 2BJ
Tel – 01625 383817
Non working day is Friday
www.cheshireeast.gov.uk



OFFICIAL

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Premises Licence

Premises Licence Number:

PREM1349

Part 1 - Premises Details

Postal address of Premises or, if none, ordnance survey map reference or description:	
Proper Sound	
8 Chestergate Macclesfield	
Post Town: Macclesfield	Post Code: SK11 6BA
Telephone Number: 07971 077990	

Where the Licence is time limited, the dates:
Not applicable

Licensable activities authorised by the Licence:
Sale and supply of alcohol

<p>The times the Licence authorises the carrying out of licensable activities:</p> <p>Sale and supply of alcohol Monday to Sunday 10.00 to 19.30 Each day</p> <p>Extended to 21:00 on days of seasonal events in Macclesfield Town Centre. Extended to 21:00 for six events in addition to the seasonal events in Macclesfield Town Centre.</p>

<p>The opening hours of the Premises:</p> <p>Monday to Sunday 09.00 to 23.00 Each day</p>
<p>Where the Licence authorises supplies of alcohol, whether these are on and/or off supplies:</p> <p>Both On and Off Supplies</p>

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of Premises Licence:

Lucie Wright

11 Loney Street
Macclesfield
SK11 8EP

Tel No: 07961 008899 E-Mail:propersound.info@gmail.com

Registered number of holder, for example company number, charity number (where applicable):

N/A

Name, address and telephone number of designated Premises Supervisor where the Premises Licence authorises for the supply of alcohol:

Lucie Wright

[REDACTED]
[REDACTED]
[REDACTED]

Personal Licence number and issuing authority of Personal Licence held by designated Premises Supervisor where the Premises Licence authorises for the supply of alcohol:

Personal Licence Number: [REDACTED]

Issuing Authority: Warwick

Licence Issued: 25th October 2022

Annex 2 - Conditions consistent with the Operating Schedule

Prevention of Crime and Disorder

1 - CCTV shall be installed, operated and maintained at all times that the premises is open for licensable activities.

- The system shall record in real time and recordings will be date and time stamped.
- Recordings will be kept for a minimum of 28 days and downloaded footage will be provided free of charge to police or authorised council officers on request, (subject to the Data Protection Act 1998) within 24 hours of any request.
- At all times the premises are open for licensable activity, there will be a person on the premises who can operate the system sufficiently to allow police or authorised council officers to view footage on request

2 -Signage stating that CCTV is in operation at the premises will be clearly displayed at the premises.

3 - There will be a zero tolerance approach to any trouble.

4 - Alcohol will be sold responsibly and not sold to drunk people.

Public Safety

5 - Fire Safety equipment will be on site and this will be checked annually.

6 -Promote a safe environment for public and staff.

7 -Staff will have basic first aid knowledge.

8 - Capacity will be kept in line with staffing levels.

Prevention of Public Nuisance

9 – Music will be kept to moderate background level.

Protection of Children from Harm

10 - The premises shall at all times operate a Challenge 25 policy to prevent any customers who attempt to purchase alcohol and who appear to the staff member to be under the age of 25 years without having first provided identification.

11 - Only a valid British driver's licence showing a photograph of the person, a valid passport or proof of age card showing the 'Pass' hologram are to be accepted as identification. Military ID Cards can also be accepted.

12 - Notices and/or posters advertising the Challenge 25 policy shall be placed in prominent positions at the premises.

13 - The Designated Premises Supervisor or Premises Licence Holder shall operate and maintain an up-to-date Register of Refusals of Sale of Alcohol, indicating the date, time and reason for refusal which shall be made available for inspection by Local Authority Officers and the Police. The DPS or other responsible person shall check and sign the register once a week. Alternatively an electronic point of sale refusals log shall be kept.

14 - A list of persons authorised to sell alcohol shall be kept on site and made available for inspection at the request of Local Authority Officers and Police.

15 - Clearly visible signage is to be displayed at the entrances and at points of sale indicating it is illegal to sell alcohol to people under the age of 18.

Annex 3 - Conditions attached after a hearing by the Licensing Authority

16 - The Premises Licence Holder must keep an incident logbook of complaints made pertaining to noise nuisance in which the DPS or other authorised officer must record the following information in respect of such complaints; the name and address of the complainant, a summary of the incident, the date and time it occurred and the steps taken to resolve it. The incident logbook or relevant entries from it must be made available for inspection to a Licensing Officer or Police Officer upon request within 72 hours.

17 - The Premises Licence Holder must submit an up-to-date and correct floor plan of the premises to the Licensing Authority prior to any licensable activity taking place.

DECISION NOTICE

PREMISES: 'Proper Sound', 8 Chestergate, Macclesfield, Cheshire, SK11 6BA
(‘the Premises’)

The Matter for Hearing

1. At 14.00pm on the 17th June 2021, the Licensing Act Sub-Committee convened remotely and heard an application for a new Premises Licence made pursuant to the Licensing Act 2003 S17.

Procedural Matters

2. The hearing was held in accordance with the Licensing Act Sub-Committee’s published procedure and the Licensing Act 2003 (Hearings) Regulations 2005.
3. Advertising requirements as prescribed by the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 were adhered to.
4. In its consideration of the application, the Sub-Committee took into account:
 - The Secretary of State’s Guidance under the Licensing Act 2003 S182 (April 2018);
 - Cheshire East Borough Council’s Statement of Licensing Policy;
 - the four licensing objectives (namely the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm) and the steps appropriate to promote them;
 - The oral and written representations made by all parties.

Hearing of the Application

5. The Licensing Act Sub-Committee heard from Mr James King and Ms Lucie Wright (‘the Applicants’) of Proper Sound, 8 Chestergate, Macclesfield, SK11 6BA.
6. The Licensing Act Sub-Committee also heard from Cllr Liz Braithwaite of Macclesfield Central Ward objecting to the application who also spoke on behalf of Ms Nicoletta Cavriani and Aimee Ainsworth and also heard from Ms Heidi Jane De Botte, local residents objecting to the application (‘the Objectors’).

7. It was noted that the Applicants had agreed conditions with Cheshire Constabulary and that there were no objections from Environmental Health.
8. In light of communication via Macclesfield Town Council's official Twitter account regarding the premises the previous day, Cllrs David Edwardes and Alift Harewood declared in the interests of openness and transparency that they are also elected Councillors of Macclesfield Town Council. They did confirm that they had not been consulted prior to the Twitter communication being released, their views had not been pre-determined and that they would proceed to consider the application in accordance with relevant law, policy and members code of conduct.
9. The members of the Sub-Committee also confirmed they had received an e-mail from a local resident but had disregarded it.
10. It was noted that following dialogue with residents the Applicants agreed to reduce the operating hours of the licensable activities so they would finish at 19:30 rather than 23:00.
11. The Applicants explained to the Sub-Committee of the concept of their business, which is intended to be predominantly a retail outlet selling artwork and apparel but with an area to provide refreshment and alcoholic drinks. They also advised it was not their intention to open a late night and excessively noisy venue, it was to create a relaxed atmosphere. The Applicants advised their reasoning behind this was the need to explore additional revenue streams following the impact of the Covid-19 pandemic. The primary purpose of the venue is not sale of alcohol, it was an additional revenue stream akin to a customer at a hairdresser's being served a drink.
12. The Applicants also explained to the Sub-Committee that they felt the concept of their business may have been mis-understood initially. They re-iterated it was not their intention to operate a noisy venue and they also wanted to finish work at a reasonable hour and spend the evening with their family.
13. In response to questions from the Objectors the Applicants confirmed they intended to play music within the operating hours but generally no later than

18:00/18:30pm. They also confirmed that the music was intended to be background music for ambience and although played through an amplifier, would generate low levels of noise.

14. In response to questions from the Objectors the Applicants stated that there had been issues with noise complaints, but these were attributable to general work being carried out on the building and prior to sound proofing and adequate plumbing being installed in the unit rather than being attributable to licensable activities.
15. In response to questions from the Objectors the Applicants confirmed it was their intention to sell alcohol but purely in moderation and not in the manner that may have been initially perceived or feared.
16. In response to questions from the Sub-Committee about the courtyard, the Applicants confirmed they did intend to create an outdoor seating area there but that it would not generate significant noise and would be similar that of a garden in a terraced house. The Applicants confirmed they did not intend to place speakers in the courtyard.
17. In response to questions from the Sub-Committee about the premises generally, the Applicants confirmed that although the seating arrangements had not yet been finalised the capacity of the premises would be approximately 10 people and it was unlikely the outdoor seating area in the courtyard would significantly increase it.
18. The Applicants confirmed that they had installed noise mitigation measures such as concrete slabs, a false ceiling with a raised roof (underneath where they intend to put the kitchen). They also intend to install measures to mitigate the sound emanating from the speakers.
19. Cllr Braithwaite presented her objection to the application to the Sub-Committee. She summarised her detailed written representation and stated that she was objecting to preserve the quality of life for residents which would be impacted detrimentally by the noise nuisance generated by the premises the outside activity and felt that it was unclear what the purpose of the business was.

20. Ms Heidi Jane De Botte also presented her objection to the application to the Sub-Committee which centred mainly around her concern about noise nuisance. She stated that her bedroom window directly overlooks the courtyard and that she can hear the noise from there, such as music and even the builders' radio when they were working at the premises.

21. In response to questions from the Sub-Committee, the Objectors confirmed that the prospect of noise nuisance emanating from the premises was their main concern and they remained unsatisfied that sufficient measures were put in place to control it.

Determination

THE DECISION OF THE LICENSING ACT SUB-COMMITTEE WAS AS FOLLOWS:

22. Having considered the Application and all relevant representations made both in writing and during the hearing and having had due regard to the statutory guidance and the Council's statement of licensing policy, the Sub-Committee has decided to **GRANT** the application for a new Premises Licence at 'Proper Sound', 8 Chestergate, Macclesfield, Cheshire, SK11 6BA.

23. The Sub-Committee granted the new Premises Licence for the following licensable activities and subject to the following operating schedule:

Sale And Supply of Alcohol (inside and outside the premises):

Monday – Sunday: 10:00 – 19:30

Extended to 21:00 on days of seasonal events in Macclesfield Town Centre

Extended to 21:00 for six events in addition to the seasonal events in Macclesfield Town Centre

24. The Sub-Committee granted the licence subject to the conditions agreed by the Applicant and Cheshire Constabulary pursuant to The Licensing Act 2003 S18(4)(a) as well as the following additional conditions;

'The Premises Licence Holder must keep an incident logbook of complaints made pertaining to noise nuisance in which the DPS or other authorised

officer must record the following information in respect of such complaints; the name and address of the complainant, a summary of the incident, the date and time it occurred and the steps taken to resolve it. The incident logbook or relevant entries from it must be made available for inspection to a Licensing Officer or Police Officer upon request within 72 hours.'

'The Premises Licence Holder must submit an up-to-date and correct floor plan of the premises to the Licensing Authority prior to any licensable activity taking place'

Reasons for Decision

25. The Licensing Act Sub-Committee granted a New Premises Licence for the licensable activity of 'Sale and Supply of Alcohol' as that was the only licensable activity applied for.

26. The activities of 'Late Night Refreshment', 'provision of live music' and 'provision of recorded music' are not licensable within the premises' operating hours, including the extended hours applied for and which have been granted. Therefore, the Applicants are permitted to carry out these activities during the premises' operating hours and the Licensing Act-Sub Committee has no legal power to prevent them from doing so.

27. The Sub-Committee found that the main Licensing Objective engaged was prevention of public nuisance. The Sub-Committee considered the concerns raised by the Objectors about the prospect of noise nuisance emanating from the premises but found that the Applicants had put sufficient measures in place which mitigated against the prospect of an unacceptable risk of a public nuisance caused by noise nuisance. Such measures included the instillation of fire regulated concrete slabs between each floor and a false ceiling with a raised roof where the Applicants proposed to place the kitchen.

28. The Sub-Committee also found that the Applicants had gone to reasonable lengths to amend their application following the concerns raised by the residents, notably the amended operating hours.

29. The Sub-Committee found that the intended use of background music for ambience which although not licensable would assist in mitigating the risk of a public nuisance arising out of the activities that were licensable.

30. The Sub-Committee considered that the imposition of the additional conditions described above, were proportionate in ensuring the licensing objective of prevention of public nuisance was upheld.

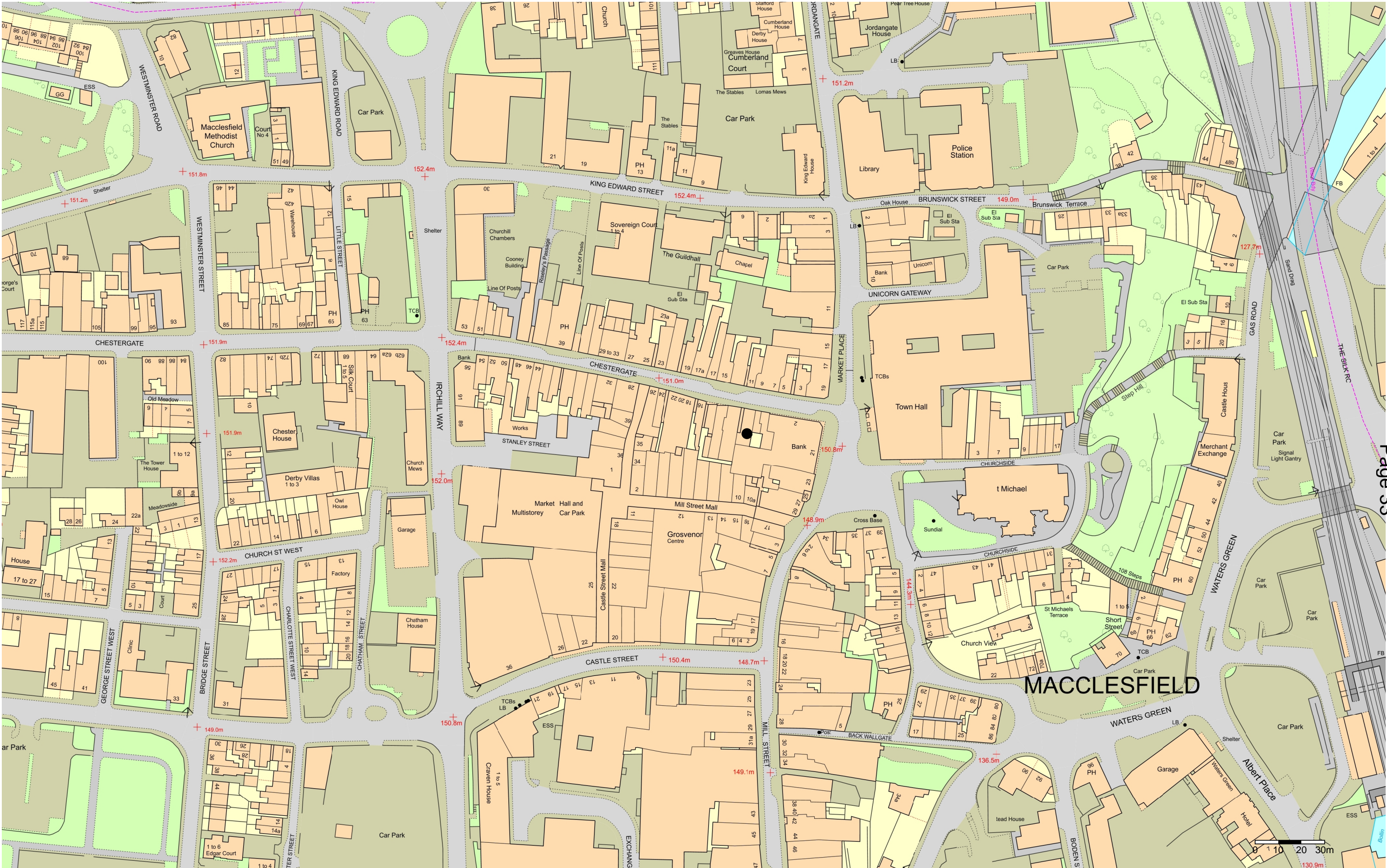
31. In light of the above and in the circumstances the Licensing Act Sub-Committee were satisfied that the licensing objectives could be upheld in granting the application.

Effect of Decision

32. This decision comes into effect immediately from the date of this Decision Notice.

Right of Appeal

33. The parties are hereby notified that they may appeal against this decision to the Magistrates' Court within 21 days beginning with the date of notification of this decision (as per paragraph 9(2), Schedule 5 Licensing Act 2003).



Appendix 5



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