

## Licensing Sub-Committee

### Agenda

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**Date:** Thursday, 6th August, 2009  
**Time:** 11.30 am  
**Venue:** The Tatton Room - Town Hall, Macclesfield SK10 1DX

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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 at the foot of each report.

#### **PART 1 - MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Appointment of Chairman**

To appoint a Chairman for the meeting.

2. **Apologies for Absence**

To receive any apologies for absence.

3. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests and for Members to declare if they have pre-determined any item on the agenda.

4. **Application for a Premises Licence - Lyme Tree Bistro (Disley) Ltd, 50 Market Street, Disley, Stockport** (Pages 5 - 18)

To consider an application for a Premises Licence for Lyme Tree Bistro (Disley) Ltd, 50 Market Street, Disley, Stockport.

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For any apologies or requests for further information.

**Contact:** Julie Zientek  
**Tel:** 01270 529641  
**E-Mail:** [Julie.zientek@cheshireeast.gov.uk](mailto:Julie.zientek@cheshireeast.gov.uk)

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## 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.**

<b>1</b>	<b>Chairman</b>	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).
<b>2</b>	<b>Licensing Officer</b>	Will introduce and summarise the application, highlighting areas of contention or dispute.
<b>3</b>	<b>Committee Members</b>	May ask questions of the Licensing Officer
<b>4</b>	<b>Applicant</b>	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>
<b>5</b>	<b>Responsible Authorities (who have made representations)</b>	Each in turn may ask <u>questions</u> of the applicant, by way of clarification.

6	<b>Local residents</b> (ie. defined as “interested parties”)	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	<b>Committee Members</b>	Each in turn may ask <u>questions</u> of the applicant.
8	<b>Applicant</b>	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	<b>Responsible Authorities</b>	Will make their representations.
10	<b>Applicant</b>	Or his representative or witnesses to ask <u>questions</u> of Responsible Authorities represented at the meeting, by way of clarification.
11	<b>Local residents</b> (ie. defined as “interested parties”)	May ask <u>questions</u> of the Responsible Authorities represented at the meeting, by way of clarification.  <b>(Note: This is not the point at which local residents should be stating their objections.)</b>
12	<b>Committee Members</b>	May ask <u>questions</u> of the Responsible Authorities represented at the meeting
13	<b>Local residents</b> (ie. defined as “interested parties”)	The local residents who are objecting to the application will be invited <b><u>to make observations on the application</u></b> and present the bases of their objections.
15	<b>Applicant</b>	Or his representative or witnesses may ask <u>questions</u> of the Local Residents, by way of clarification.
16	<b>Committee Members</b>	May ask <u>questions</u> of the Local Residents.
17	<b>Chairman</b>	To invite both <b>Responsible Authorities</b> and <b>Local Residents</b> to make their closing addresses.
18	<b>Applicant</b>	Or his representative will <u>briefly summarise the application</u> and comment on the observations and any suggested conditions.
19	<b>Committee</b>	<u>Will retire</u> to consider the application. The Committee may request the Legal Advisor to advise on legal issues.
20	<b>Committee</b>	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.
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**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 **Local residents** (defined as interested parties) 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.

## CHESHIRE EAST COUNCIL

### REPORT TO: LICENSING SUB-COMMITTEE

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**Date of Meeting:** Thursday 6<sup>th</sup> August 2009

**Report of:** Mrs N Cadman, Licensing Officer  
**Subject/Title:** Application for a Premises Licence -  
Lyme Tree Bistro (Disley) Ltd, 50 Market Street, Disley,  
Stockport.

#### **1.0 Report Summary**

- 1.1 The report provides details of an application for a premises licence together with information as to representations received in relation to the application.

#### **2.0 Recommendations**

The Licensing Sub-Committee is requested to determine the application for a Premises Licence by Lyme Tree Bistro (Disley) Ltd in respect of Lyme Tree Bistro, 50 Market Street, Disley, Stockport.

#### **3.0 Reasons for Recommendations**

- 3.1 The Licensing Sub-Committee has the power to determine this application in accordance with the provisions of the Licensing Act 2003.

#### **4.0 Wards Affected**

- 4.1 Bollington & Disley Ward

#### **5.0 Local Ward Members**

Cllr Harold Davenport  
Cllr Matthew Davies  
Cllr Mrs Diana Thompson

#### **6.0 Policy Implications**

- 6.1 The Licensing Authority has adopted a Statement of Licensing Policy in accordance with section 5 of the Licensing Act 2003 and Guidance issued under section 182 of the Act.

#### **7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

- 7.1 Not applicable.

#### **8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

- 8.1 Not applicable.

## **9.0 Legal Implications (Authorised by the Borough Solicitor)**

- 9.1 In accordance with the provisions of section 18 of the Licensing Act 2003 the Licensing Authority must, having regard to the representations, take such steps (if any) as it considers necessary for the promotion of the licensing objectives. Section 18(4) provides that the authority may (a) grant the licence subject to conditions; (b) exclude from the scope of the licence any of the licensable activities to which the application relates; (c) to refuse to specify a person in the licence as the premises supervisor; or (d) to reject the application.

## **10.0 Risk Management**

- 10.1 Section 181 and Schedule 5 of the Licensing Act 2003 make provision for appeal to the Magistrates' Court of any decision made by the Licensing Authority.

## **11.0 Background and Options**

- 11.1 The application is for Premises Licence under section 17 of the Licensing Act 2003

- 11.2 The operating schedule indicates that the relevant licensable activities applied for are:

Live Music

Recorded Music

Sale and supply of alcohol

Provision of facilities for dancing

Late Night Refreshment

- 11.3 The hours applied for are as follows:

**Live Music** (to take place indoors)

Monday to Sunday 20.00 to 23.30

Special occasions, Christmas and New Years Eve extend hours to 01.00

**Recorded Music** (To take place indoors)

Monday to Sunday 11.00 to 24.00

Special occasions, Christmas and New Years Eve extend hours to 01.30

**Sale and supply of alcohol** (for consumption both on and off the premises)

Monday to Sunday 11.00 to 24.00

Special occasions, Christmas and New Years Eve extend hours to 01.30

**Provision of facilities for dancing** (To take place indoors)

Monday to Sunday 20.00 to 23.30

Special occasions, Christmas and New Years Eve extend hours to 01.00

**Late Night Refreshment** (To take place indoors)

Monday to Sunday 23.00 to 24.00

Special occasions, Christmas and New Years Eve extend hours to 01.30

Other times the premises are proposed to be open:

Monday to Sunday 08.00 to 24.00



Special occasions, Christmas and New Years Eve extend hours to 02.00

11.4 Designated Premises Supervisor: Mr Christopher Hume

11.5 The operating schedule includes the following steps to promote the licensing objectives:

(a) Prevention of crime and disorder

There shall be provision of staff training in crime prevention measures.

There shall be provision of door supervisors registered by the Security Industry Authority.

There shall be development of a clear policy to deal with violent/anti-social behaviour on the premises.

There shall be raised awareness of safer drinking and information to ensure safe travel at night.

A policy shall be implemented to prevent sales of alcohol to underage persons by asking for suitable identification.

There shall be provision of an appropriate number of tables and chairs to prevent vertical drinking.

(b) Public safety

Arrangements shall be in place to ensure that all people, including the disabled, can be evacuated from the premises in the event of an emergency.

All furnishings shall be maintained in flame retardent condition.

There shall be clearly identified escape routes and exit doors with unhindered access to these escapes maintained at all times.

There shall be adequate fire prevention systems in place and these shall be regularly maintained and checked.

There shall be provision of first aid equipment and services.

A capacity limit shall be set and controlled.

(c) Prevention of public nuisance

There shall be a noise impact assessment undertaken and implemented.

There shall be control over the level of music and other entertainment so that this is confined within the premises.

Outside areas shall not be used for musical purposes.

Customers entering and leaving the premises shall be supervised.

There shall be the correct installation and operation of equipment used at the premises to prevent noise nuisance and odours.

(d) Protection of children from harm

There shall be a strict enforcement policy to prevent the sale of alcohol to and prevent the consumption of alcohol by children at the premises.

(e) General – all four licensing objectives

Risk assessments shall be prepared to identify actual and potential risks associated with the proposed use and design of the premises.

## 11.6 Relevant Representations

### Responsible Authorities

11.6.1 The Police state in their response: Application received 16th June 2009 for a Premises Licence at Lyme Tree Bistro, 50 Market Street, Disley. The premises, situated next to the village Co-Op on the busy main A6 road, were formally an Antique Shop and is now under complete renovation. There is limited parking directly outside the premises and a short stay car park within close walking distance. The proposed Designated premises Supervisor is currently Christopher Hume. On completion this is expected to change with a full time manager appointed. There are no police objections to the application

11.6.2 Environmental Health – No response received.

11.6.3 Cheshire Fire Service state in their response: I have no observation to make but have sent a letter to the applicants solicitors reminding them of the duties they have to comply with for the Regulatory Reform (Fire Safety ) Order.

11.6.4 Local Planning Authority – No response received.

11.6.5 Area Child Protection Committee – No response received.

11.6.5 Health and Safety Officer – No comments.

11.6.6 Trading Standards – No response received.

### Interested Parties

The Licensing Authority has received a representation from neighbour objectors and details of this are appended to this report.

## **12.0 Overview of Year One and Term One Issues**

12.1 Not applicable

## **13.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

Name: Mrs N Cadman  
Designation: Licensing Officer  
Tel No: 01625 504206  
Email: nikki.cadman@cheshireeast.gov.uk

## **APPENDICES**

Appendix 1 – Neighbour objection and associated correspondence.  
Appendix 2 – Plan of area

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APPENDIX ONE

**Representation from interested parties regarding Licensing Application for Premises 50 Market Street Disley Cheshire. [Lyme Tree Bistro [Disley] LTD]**

Background.

Planning application 08/1763p approved Nov 08 for change of use from Antique shop to Coffee house / restaurant.

Main points of Applicants supporting submission

1. To be a meeting place for locals, i.e. coffee house, tea room menus, supporting 5 a day healthy eating. In particular non drinkers and women and children. All market research supports this need /idea
2. No intention to create an upmarket restaurant that will deliberately attract people from outside.
3. No plans to alter the size of the building
4. States no residential properties nearby [Therefore there will be no noise, disturbance, parking problems or cooking smells /fumes etc.]
5. No need for parking as all locals will walk to premises
6. No opening hour proposals put forward on either this or subsequent applications.

Points to consider from the above.

1. All data shows daytime meeting place for locals is a great idea, although reference made to not wanting another pub environment.
2. Bistro by its name infers a small informal restaurant serving wine, implication of how this interacts with live music and dancing application from 20.00 to 23.30 hrs every day of the week.
3. New planning application 08/2666p approved May 09 for single and two storey extension considerably adding to the size of the building.
4. Existing Residential properties next to the building No 48 market Street both the applications have the potential to injure or harm the amenities of these properties.
5. Parking is at a premium in Disley with the area leading up to and outside the building being used for residents to park from houses on Market Street and Buxton Road opposite.
6. No conditions applied regarding opening hours as the last application is deemed to be an extension. [Again to be dealt with at licensing]

Therefore with reference to the licensing objectives we have concerns regarding The prevention of Public Nuisance.

1. Times of opening reduced at night to finish earlier protecting the amenity of residents next door and above. A noise control policy documented and managed to prevent any occurrences of harm to amenity of neighbouring residents
2. Understand the requirement for live music and dancing each day of the week given the outline by the applicant for the type of premises he is creating.
3. Understand the facilities for smokers such that they do not congregate outside the front of the premises, again affecting the resident's entry and exit passage to next door.
4. Consideration given to signage requesting customers leave the premises and area quietly

The prevention of Crime and Disorder

1. Consideration given to CCTV system both internally and externally with recordings kept for a minimum of 28 days. {Thus assisting with any concerns local residents may have with regards to potential damage etc to vehicles, property.}

Public safety

2. The above consideration may also help alleviate any concerns regarding the lack of parking and any abuse this may lead to with regards to the double yellow lines outside and the zig zags for the crossing further on.

As can be seen we have tried to put forward facts and solutions as we are supportive of the daytime tea room / coffee house, but are keen to ensure that there is not a Jekyll and Hyde metamorphous at night into a noisy type wine bar situation.

**APPENDIX ONE**

**From:**  
**Sent:** 24 July 2009 08:17  
**To:** Cadman, Nikki  
**Subject:** RE: APPLICATION FOR PREMISES LICENCE AT 50 MARKET STREET, DISLEY

Dear Mrs Cadman

Apologies for not responding sooner but have been away for the week, returning last night. To clarify our position, the building we own is a residential property

Market Street. Our concerns are as we have listed, mainly noise late in to the evening, smokers congregating outside our door etc. From your Email, if I understand correctly, you are agreeing to the licence in its current form and that our only option is to object should we not wish for this to happen. That being the case we have no choice but to formally object on the grounds laid out as before regarding times etc.

I look forward to hearing from you shortly.

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**From:** Cadman, Nikki [mailto:[nikki.cadman@cheshireeast.gov.uk](mailto:nikki.cadman@cheshireeast.gov.uk)]  
**Sent:** 20 July 2009 14:19  
**To:**  
**Subject:** APPLICATION FOR PREMISES LICENCE AT 50 MARKET STREET, DISLEY  
**Importance:** High

Dear

I refer to my email of 16th July 2009 and to date I do not appear to have received a reply from you. If you wish your original email to be taken as a formal objection to the issue of this Premises Licence, I need to know at your most earliest convenience. If you do wish to make formal objection, then this application would be need to be heard before the Licensing Committee on 6th August 2009 and there are preparations which have to be made well before this date.

This Premises Licence was due to be issued on 15th July 2009 and is being held up awaiting your reply. If I have not heard from you by the close of business on 24th July 2009, I will assume that your representation was for information purposes only and was not an objection to the issue of the Premises Licence.

I look forward to hearing from you shortly.

Yours sincerely,

*Nikki Cadman*

Mrs N M Cadman  
Licensing Officer  
Cheshire East Council  
email [nikki.cadman@cheshireeast.gov.uk](mailto:nikki.cadman@cheshireeast.gov.uk)

*Tel. 01625 504206*  
*Fax. 01625 504203*

**From:** Cadman, Nikki  
**Sent:** 16 July 2009 12:06  
**To:**  
**Subject:** RE: Licensing Application 50 Market Street Disley Cheshire

Dear

Thank you for your email representation relating to the above application.

I note that your representation is from interested parties. 'Interested parties' mean persons who live or work in the vicinity of the premises and include anyone representing such people. To enable me to accept your representation, please could you provide me with details of where you live in relation to the premises and also the details of the interested parties you are representing.

The first two paragraphs of your email refer to planning applications, these matters cannot be taken into consideration in this instance. The paragraphs which follow relate to the licensing objectives, which are of relevance, apart from your reference to car parking matters which cannot be taken into consideration.

For your information, I list below the conditions which have been volunteered by the applicants, and these will be attached to the new Premises Licence when it is issued:

***Prevention of Crime and Disorder***

- 1. There shall be provision of staff training in crime prevention measures.*
- 2. There shall be provision of door supervisors registered by the Security Industry Authority.*
- 3. There shall be development of a clear policy to deal with violent/anti-social behaviour on the premises.*
- 4. There shall be raised awareness of safer drinking and information to ensure safe travel at night.*
- 5. A policy shall be implemented to prevent sales of alcohol to underage persons by asking for suitable identification.*
- 6. There shall be provision of an appropriate number of tables and chairs to prevent vertical drinking.*

***Public Safety***



*7. Arrangements shall be in place to ensure that all people, including the disabled, can be evacuated from the premises in the event of an emergency.*

*8. All furnishings shall be maintained in flame retardent condition.*

*9. There shall be clearly identified escape routes and exit doors with unhindered access to these escapes maintained at all times.*

*10. There shall be adequate fire prevention systems in place and these shall be regularly maintained and checked.*

*11. There shall be provision of first aid equipment and services.*

*12. A capacity limit shall be set and controlled.*

### **Prevention of Public Nuisance**

*13. There shall be a noise impact assessment undertaken and implemented.*

*14. There shall be control over the level of music and other entertainment so that this is confined within the premises.*

*15. Outside areas shall not be used for musical purposes.*

*16. Customers entering and leaving the premises shall be supervised.*

*17. There shall be the correct installation and operation of equipment used at the premises to prevent noise nuisance and odours.*

### **Protection of Children from Harm**

*18. There shall be a strict enforcement policy to prevent the sale of alcohol to and prevent the consumption of alcohol by children at the premises.*

### **General – All Licensing Objectives**

*19. Risk assessments shall be prepared to identify actual and potential risks associated with the proposed use and design of the premises.*

I think that some of your concerns are addressed by the voluntary conditions above, please let me have your thoughts regarding these.

Your representation offers ideas for more conditions to be added to the Premises Licence. In order for this to be done, either the applicants must agree to these extra conditions or the application would have to be heard at a meeting of the Licensing Committee, before the licence could be issued. That is, if your representation is an objection to the licence being issued as applied for. If this is the case, please let me know if you or any of the interested parties would be willing to attend that hearing, or if indeed you feel a hearing is necessary.

However, the other option is for me to send a copy of your representation to the applicants for information purposes to show the concerns of the neighbours regarding the opening of this new business. Then issue the Premises Licence as applied for and should there be any problems as a result of the running of the business, in connection with any of the licensing objectives, ie. public nuisance from noise pollution, then the neighbours have the right to call a review of the Premises Licence.

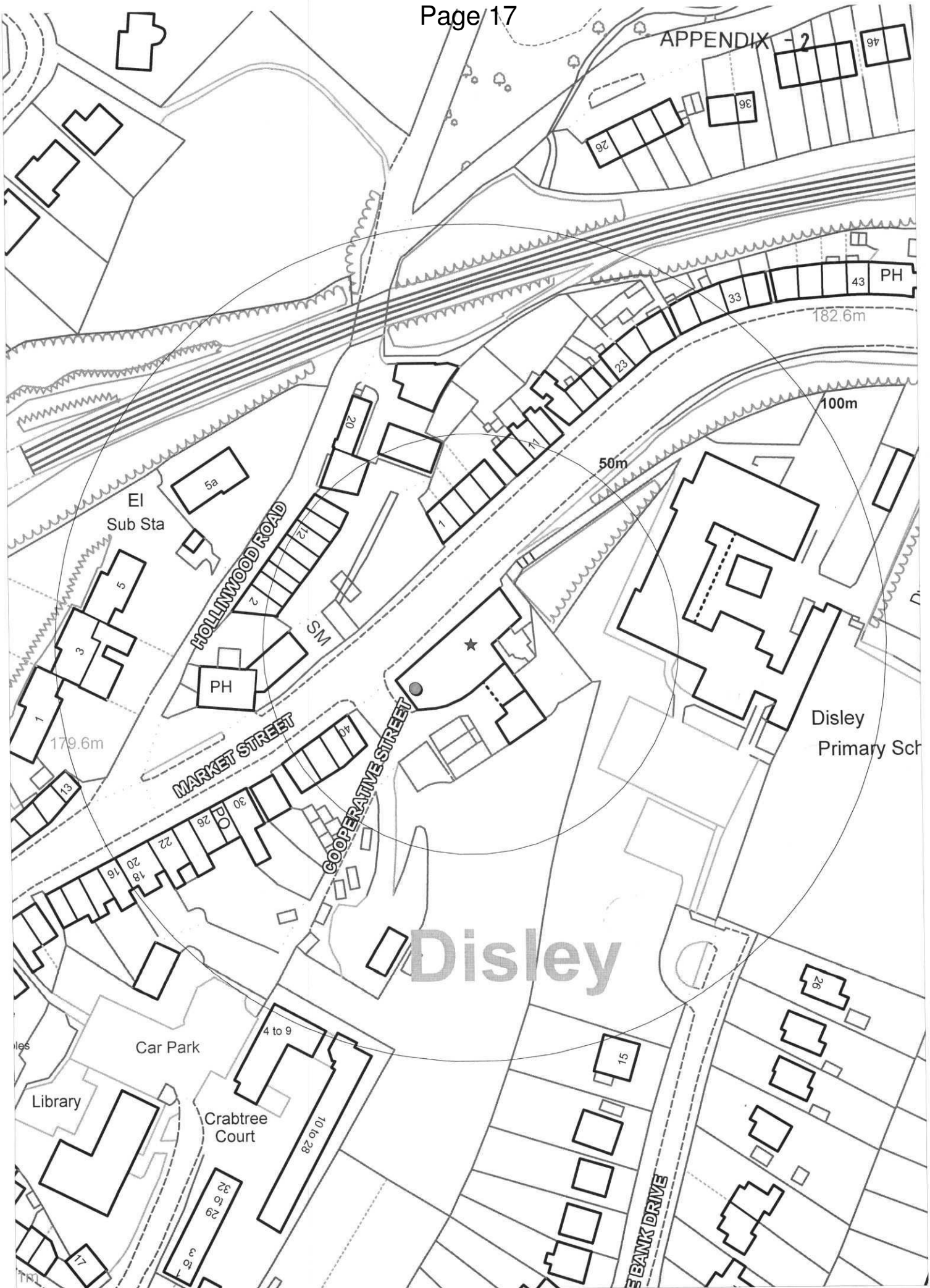
Please let me know how you wish to proceed. In the meantime, I will send a copy of your representation, minus your name details, to the applicant's solicitors.

I look forward to hearing from you shortly.

Yours sincerely

*Nikki Cadman*

Mrs N M Cadman  
Licensing Officer  
Cheshire East Council  
email [nikki.cadman@cheshireeast.gov.uk](mailto:nikki.cadman@cheshireeast.gov.uk)  
Tel. 01625 504206  
Fax. 01625 504203



**LYME TREE BISTRO (DISLEY) LTD, 50 MARKET STREET, DISLEY, STOCKPORT.**

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