

Date: Thursday, 16 February 2023

Time: 9.30 am

Venue: Wilfred Owen Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

Contact: Tim Ward, Committee Officer
Tel: 01743 257713
Email: tim.ward@shropshire.gov.uk

LICENSING ACT SUB-COMMITTEE

TO FOLLOW REPORT (S)

3 Application for a Full Variation to a Premises Licence - Wyle Blue Restaurant, Café Bar, 19 Wyle Cop, Shrewsbury, Shropshire, SY1 1XB (Pages 1 - 12)

Additional information received from Mr Higgins

(i) quotations from related planning Decisions and Management Reports.

(ii) Quotations from the applicant on Public Nuisance matters during the Licensing Hearing on 5 May 2021.

(iii) An advert on the Wyle Blue World Facebook page (dated 21 August 2021, 5 days before the live event when police were called).

(iv) A letter from Officers closing a complaint about a planning breach on noise from music.

Contact Ross O'Neil on 0345 6789026

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License Variation: 22/04163/LFVPRE

Related Planning Application Documents and Management Reports for 19 Wyle Cop, Wyle Blue World

Application no. 21/01493/FUL

'4. No amplified, live or other music shall be played on the premises.

Reason: In order to protect the amenity of nearby properties.' **DECISION NOTICE 4 June 2021**

Application no. 22/00228/FUL

'3. The outdoor café/restaurant shall only be open to customers and **no customers shall remain on the premises* outside the following hours:**

Monday to Saturday 8.30 to 19.00
Sunday 9.30 to 19.00

Reason: To protect the amenities of the occupiers of nearby properties.

5. No amplified, live or recorded music or singing of any other music or singing of any kind shall be played on the premises.

Reason: In order to protect the amenity of occupiers of nearby properties.' **DECISION NOTICE 31 March 2022**

Application no. 22/02816/VAR

VARIATION OF CONDITIONS

1. Condition number 3 and 5 attached to planning permission 22/00228/FUL dated 31.03.22 are hereby varied as follows:

Condition 3: The outdoor café/restaurant shall only be open to customers and **no customers shall remain on the premises outside the following hours:**

Monday to Saturday 8.30 to 20.00
Sunday 9.30 to 20.00

Reason: To protect the amenities of the occupiers of nearby properties.

Condition 5: No amplified, live or recorded music or singing or any other music or singing of any kind shall be played on either the Upper Level Terrace or the Lower Level Courtyard other than recorded music that can be played on the **Lower Level Courtyard** provided it is played at a volume that is not clearly audible at the boundary of any nearby residential properties.

Reason: In order to protect the amenity of occupiers of nearby properties.

DECISION NOTICE 3 August 2022

‘Conditions

You will see that your decision notice includes a number of conditions:

You **must** comply with all of the conditions.’ **NOTES (Decision Notices)**

Development Management Report 22/00228/FUL

‘The proposal as first submitted was for a mixed use including drinking establishment **which is a ‘sui generis’ use. 1.2**

The application form also indicated opening hours to 11.00 pm each evening and the applicant was advised that both the proposed hours and a use that included drinking establishment was unacceptable. **1.3’**

‘Regulatory services (RS) have commented on the application which as first submitted included drinking establishment and with opening hours until 11 pm. RS have advised that the site would be more suitable as a café/restaurant with earlier closing times than applied for. **6.2.4**

It is considered that a mixed use drinking establishment would result in more noise and disturbance than a café/restaurant use and that even as a café/restaurant the noise generated from customers talking would have an adverse impact on residential amenity. This would be more noticeable if open later into the evening when the town is quieter and when residents can reasonably expect to enjoy some peace and quiet. **6.2.5**

‘...it is considered that the proposed use as a café/restaurant would be acceptable subject to a condition that the use should cease after 7 pm each evening. **The agent on behalf of the applicant has confirmed an amendment to the description to omit drinking establishment (bar). 6.2.6**

‘This application proposes to extend the operating hours from those permitted for the temporary permission, this will have a cumulative impact on existing noise issues in the area. While some controls can be implemented, like the prohibition of any musical entertainment in the garden area, as was applied to the temporary permission, it is very difficult to control the noise generated by people talking. When there is a large group of people their voices get louder, **particularly when they have been drinking.’ 4.1.3**

‘Whilst this is a town centre location the application site is located in a relatively quiet area surrounded by residential properties and gardens and hence the proposed change of use is likely to have a significant affect on the amenity the surrounding properties (sic).’ **4.1.3**

'Based on the nature of the area and the complaints received to date I recommend that the site in question would only be suitable to a café use i.e. premises only in use up to 7.00 pm and the pub style use described in this application is not suitable for this location... I consider it highly unlikely that the proposals could be operated without having a significant impact on surrounding residential properties. **4.1.3**

'A group of 70 people talking normally (not behaving in a rowdy manner) will generate a significant amount of noise that in my opinion will generate a significant amount of noise that in my opinion is highly likely to exceed the significant observed adverse effect level (SOAEL). The level of noise will be intensified during periods of warm weather, which will also coincide with when local residential properties will want to enjoy their gardens and have windows open...

The Noise Policy Statement for England recommends that developments which are likely to exceed the SOAEL should be avoided and hence I would not recommend approving this application.' **4.1.3**

Development Management Report 22/02816/VAR

SC Regulatory Services

'**Condition 3** - Extension of opening times to 8pm ' The applicant has also applied for a variation to the premises licence which permits the sale of alcohol, as part of this variation **it is intended to restrict the sale of alcohol to accompany food only. This will help to maintain the café/restaurant nature of the premises. Baring (sic) this in mind** it is considered that the extension by one hour is not likely to have a significant adverse impact on the amenity of surrounding properties.' **4.1.1.**

'**Condition 5** ' Variation to permit playing of ambient background music ' The premises is surrounded by residential gardens which make it very difficult to play music at a level which would not be intrusive in the surrounding gardens. As the music is intended for background music it would be present throughout the opening times of the premises. While the volume may not be loud the duration which it would be present make it a significant impact on the amenity of the neighbouring gardens. The courtyard garden is surrounded by high walls so music could potentially be played in this area and not impact on the surrounding properties if carefully controlled by the operator of the premises. Therefore, condition 5 could be varied to:

5. No amplified, live or recorded music or singing or any other music or singing of any kind shall be played on the Upper Level Terrace of the premises. On the Lower Level Courtyard recorded music can be played at a volume that is not clearly audible at the boundary of any nearby residential properties.

Reason: In order to protect the amenity of occupiers of nearby properties It should be noted by the applicant that in order to meet this condition the volume that music can be played may not be satisfactory for its purpose particularly at times when the premises is busy.' **4.1.1**

SHREWBURY TOWN COUNCIL

‘Members do have concerns with Condition number 5 regarding the music. The location of this business is within a residential area and could cause aggravation to neighbouring properties. Members support the comments made by SC Regulatory Services and support their suggestion for Condition 5.’ **4.2.1**

‘...RS original comments referred to the premises not being suitable for use as a pub or drinking establishment and therefore recommended use up until 7pm as a cafe use. Any later might have changed the use to a more **mixed use including drinking establishment that would have a tendency to result in more noise.**’ **6.1.3**

‘RS officers have now visited the premises and have also confirmed that an application to vary the premises licence which permits the sale of alcohol has also been submitted. **It is proposed that the variation to the licence will restrict the sale of alcohol to accompany food only and therefore customers will not be able to order alcoholic drinks and not food. This would be in accordance with the planning permission which is for use as a cafe/restaurant and not a drinking establishment.**’ **6.1.4**

‘It is considered that the continuous playing of music during opening hours 7 days a week that would be audible at neighbouring properties would have an adverse impact on the amenity of neighbouring properties and enjoyment of their gardens. The EH officer has therefore recommended that the condition is amended to only allow music in the lower courtyard and not the upper terrace and that it should not be clearly audible at the boundary of any near by residential properties.’ **6.1.5**

APPENDIX 1: VARIATION OF CONDITIONS

‘1. Condition number 3 and 5 attached to planning permission 22/00228/FUL dated 31.03.22 are hereby varied as follows:

Condition 3: The outdoor cafe/restaurant shall only be open to customers and no customers shall remain on the premises outside the following hours:
Monday to Saturday 8:30 to 20:00 Sunday 9:30 to 20:00

Reason: To protect the amenities of the occupiers of nearby properties.

Condition 5: No amplified, live or recorded music or singing or any other music or singing of any kind shall be played on either the Upper Level Terrace or the Lower Level Courtyard other than recorded music that can be played on the Lower Level Courtyard provided it is played at a volume that is not clearly audible at the boundary of any nearby residential properties.

Reason: In order to protect the amenity of occupiers of nearby properties.’

*** 'The Premises**

The term 'premises' refers to any office or meeting rooms, access to and within a building, reception and any other facilities and the immediate surroundings used by the organisation in the course of business.'

GOV.UK *Guidance: Premises* updated 12 June 2019

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**Applicant's comments on Public Nuisance, Licensing Sub-Committee
Hearing 5 May 2021**

Noise

'It is not a disco...

I don't want loud music playing. It is just purely about background music and it's ambience and it's about people being able to talk.'

Mrs B Griffiths 5 May 2021 Licensing Sub-Committee Hearing 2021

Smoke, Odour

'I will stop using the pizza oven. It is my intention to replace this... I have stopped using and I will stop using the pizza oven and it's my intention to replace this with a griddle. I will only be cooking three things: mini-chicken skewers; mini-lamb skewers; mini vegetable skewers.'

'There will be no smoke, no fumes, no steam.'

'I will be operating the Bluebar with an online and instore booking system.'

Mrs B Griffiths 5 May 2021 Licensing Sub-Committee Hearing 2021

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Wyle Blue World is at Wyle Blue World.

21 August at 12:59 · Shrewsbury · 🌐

...

THURSDAY EVENINGS at the blueBAR 🍕🎵 Kick starting next Thursday (26th August from 6.30) We are excited to launching pizza & live music night at the blueBAR ~ Featuring scrumptious pizza courtesy of @readysteadydoughpizza & acoustic music by [Dan Sutton Music](#) !

💙 Join us every Thursday evening throughout September for music, pizza & tipples ~ Bookings recommend but walk-ins are always welcome 🙌



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Mr P Higgins
[REDACTED]

Date: 28th June 2022

Our Ref: 21/08155/ENF

Your Ref:

Dear Sir,

TOWN AND COUNTRY PLANNING ACT 1990

CASE REFERENCE 21/08155/ENF

PLANNING ENQUIRY: Alleged breach of Planning Control in relation to condition 4 attached to planning permission 21/01493/FUL (amended)

LOCATION: Wyle Blue World, 19 Wyle Cop, Shrewsbury, Shropshire, SY1 1XB.

We are writing to confirm that officers have concluded their investigation into the above enquiry. Following receipt of the owners confirmation that they will comply with Condition No.4 of planning consent 21/01493/FUL in relation to the playing of amplified, live or recorded music or singing of any kind, we have now closed this case.

Thank you for bringing this matter to our attention.

Yours faithfully

Planning Enforcement Support Team

Email: planningenforcement@shropshire.gov.uk

Telephone: 01743 258704

Development Management, Planning Enforcement, Planning Services, Shropshire Council, PO Box 4826, Shrewsbury, SY1 9LJ

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