



Licensing Sub-Committee
Thursday 6th April 2023
Shrewsbury room - Shirehall

Item
Public

LICENSING ACT 2003

APPLICATION FOR A PREMISES LICENCE

Responsible Officer Ross O'Neil, Public Protection Officer (Specialist)
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1. Summary

To consider an application for a full variation to a Premises Licence.

Premises: Mytton and Mermaid, Atcham, Shrewsbury, Shropshire, SY5 6QG

Shropshire Council being the authorised licensing authority for the above premises has received an application for a full variation. (A location map and location photographs are attached to the report as **Appendix A and B**).

The application has been accepted as a valid application and during the statutory consultation period relevant representations were made. The application is therefore required to be determined by way of a hearing of the Licensing Sub-Committee.

In determining the application the licensing authority must give appropriate weight to:

- the steps that are necessary to promote the licensing objectives;
- the representations (including supporting information) presented by all parties;
- Guidance issued under Section 182 of the Licensing Act 2003;
- Shropshire Council's Licensing Policy 2019 - 2024.

After considering all the relevant issues the licensing authority may grant the application in full or in part, subject to such conditions that are deemed necessary and appropriate. Any conditions imposed must be appropriate for the promotion of the licensing objectives.

Alternatively the application can be refused if it is considered appropriate for the promotion of the licensing objectives.

Following a hearing, the licensing authority should give its decision and provide reasons to support it. This will be important if there is an appeal by any of the parties.

All parties are required to be notified of a decision and that decision should be accompanied by information on the right of the party to appeal.

2. Recommendations

That the Sub-Committee determines the application in accordance with the Statutory Guidance issued under s182 of the Licensing Act 2003, the Council's Statement of Licensing Policy, the information contained within this report, supporting documentation and having had due regard to the applicant and the parties/authorised bodies making relevant representations.

That the Sub-Committee determines the application in accordance with the options in paragraph 9.

That the Sub-Committee provides the reasons for its decision.

REPORT

3. Human Rights Act Appraisal

The Committee is required to consider the consequences of refusal or approval on the applicant's human rights.

4. Financial Implications

None.

5. Purpose of Report

To consider an application for a variation at Mytton and Mermaid, Atcham, Shrewsbury, Shropshire, SY5 6QG.

6. Background

6.1 Brunning & Price Limited have made an application for a variation of the premises licence. The premises operates as a hotel and restaurant.

The current premises licence covers the ground floor of the building, except for the bedrooms and function room. The premises is situated off the B4380 in Atcham, adjacent to the River Severn and opposite Attingham Park with residential properties to the East.

The current licence was granted in November 2005. Brunning and Price Limited transferred the licence in June 2022 and subsequently undertook a complete refurbishment. From a Licensing perspective there are no historic

complaints. However, a previous review hearing has been heard and Annex 3 conditions added to the licence in relation to noise control measures.

During consultation, amendments have been made by the applicant due to representations received off the Police and Trading Standards.

- 6.2 The existing premises licence (**Appendix C**) and Plan (**Appendix D**) permits the following:

Opening hours

Monday to Sunday 10:00 – 02:00

24 hours for hotel residents

Supply of alcohol (both on and off sales)

Monday to Sunday 10:00 – 01:00

24 hours for hotel residents (End time 02:00 1st March till 30th September)

Late night refreshments (indoors)

Monday to Sunday 23:00 – 01:00

Live music (indoors)

Monday to Sunday 10:00 – 01:00

Recorded music (indoors)

Monday to Sunday 10:00 – 01:00

Additional non- standards hours for all activities and sales on Christmas Eve, New Year's Eve and New Years' Day.

- 6.3 The variation application (**Appendix E**) and proposed Plan (**Appendix F**) seek to amend the following:

- The whole building is to be included within the demise of the licence including the bar/ restaurant, external dining terraces and all bedrooms (to cover the provision of mini bars)

- Adjacent grounds also to be included within the licence so portable bar serveries can be located within the area, weather permitting, to provide the sale of alcohol to customers that wish to use the grounds.
- It is proposed that the hours for the sale of alcohol will commence from 08:00 hours daily to tie in with the company's breakfast offering. Alcohol sold before 10:00 hours to non- residents will be ancillary to food.
- Remove all conditions contained within annexes 2/ 3 and replace with new conditions as per operating schedule.
- There are no proposals to change the nature of the premises which will continue as a hotel and restaurant.

Opening hours

Monday to Sunday 00:00 – 23:59

Supply of alcohol (both on and off sales)

Monday to Sunday 08:00 – 01:00

24 hours for residents and bona fide guests

End time 02:00 1st March till 30th September, Christmas Eve and New Year's Day

New Year's Eve: 08:00 – start of normal hours on New Year's Day

- 6.4 The applicant has requested to remove all current conditions within Annexes 2 and 3 of the current licence:

Annex 2 – Conditions consistent with the operating schedule

Prevention of Crime & Disorder

1. *Entrance/Exits would be well illuminated;*
2. *Good visibility of the public areas from the bar areas would be maintained.*
3. *Regular checks would be made of the toilet and outside areas;*
4. *The premises would not be targeted to attract the 18-25 age group.*

Public Safety

1. *Firefighting and smoke detection equipment would be maintained annually.*

Prevention of Public Nuisance

1. *Customers would be instructed to leave quietly with signs being displayed at exits that effect;*
2. *Firework displays would be arranged through the hotel to finish prior to 22:15 and the Parish Council would be notified of such events.*

Protection of Children From Harm

1. *Staff would be trained to refuse to serve alcohol to anyone who appears under 21 and cannot prove that they are over 18;*

2. *Only a drivers licence or passport would be accepted as proof of age.*

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

1. *Firework displays would be limited to ten in number in any calendar year except that in addition there may be a firework display on New Year's Eve between 00:00 and 00:30 the following morning;*
2. *All amplified music would be controlled through a noise limiting device set by the Environmental Health Officer;*
3. *All doors and windows would be closed in any part of the premises in which regulated entertainment is taking place;*
4. *No regulated entertainment would take place in the courtyard area after 23:00.*

- 6.5 The applicant has identified new conditions to promote the four licensing objectives. The operating schedule details that the following steps would be taken:

6.5.1

- *The sale and supply of alcohol before 10:00 hours for non-residents will be ancillary to breakfast/table meal.*
- *Alcohol and hot food will be available 24 hours a day to residents and their bona fide guests.*
- *CCTV will be installed and maintained within the premises to the satisfaction of the police.
Images will be retained for a period of 31 days and made available to any of the responsible authorities upon request.*
- *All members of staff engaged in the provision of licensable activities must receive training in relation to:-*
 - *The licensing objectives contained in the Licensing Act 2003*
 - *Responsible retailing of alcohol, and the law*
 - *Protection of children from harm and this must include how to competently check customers identification where necessary*
 - *Authorised hours for licensable activities and the conditions attached to the premises licence*
- *The staff training records will be maintained at the premises and made available to any Responsible Authority upon request.*
- *The use of the external areas for licensable activities will cease at 23:00 hours.*
- *Portable bar serveries may be used within the external areas. The location of which will be risk assessed prior to use and a copy of the risk assessment kept on the premises during the period of use, copies of which will be made available for inspection by any of the responsible authorities upon request.*
- *A fire risk assessment will be carried out and a copy available on the premises for inspection by any of the responsible authorities upon request.*

- *Clearly legible notices shall be displayed at all exits from the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly.*
- *Fireworks displays will be limited to 10 events in any calendar year and will finish by 22:15 hours except, in addition, on New Year's Eve there may be a fireworks display between 00:00 and 00:30 the following morning.*
- *Any amplified music will be controlled through a noise limiting device set in agreement with the Environmental Health Department.*
- *All ground floor doors and windows within the premises will be closed while regulated entertainment is taking place.*
- *The premises will operate a challenge 25 scheme. Acceptable forms of identification will be photographic such as a photo driving licence, passport or PASS accredited proof of age card, etc.*

7. Representations received (Responsible Authorities)

7.1 Representations were received off the Police and Trading Standards. These have both been withdrawn following an agreement of additional conditions.

7.2 Police requested a drugs policy and additional CCTV conditions. The following were proposed and agreed with the applicant:

1. *Colour digital CCTV, with a picture quality capable of being used for evidence, will be installed to cover all internal areas of the premises, including point(s) of sale and all entrances/exits, and any external areas used for licensable activities or where outside seating is provided. The CCTV will be operational at all times the premises is open to the public.*
2. *CCTV recordings will be retained for a minimum of 30 days and made available in a viewable format to any authorised authority on request.*
3. *When the premises is open to the public there will always be a member of staff on site who is trained in the operation of the CCTV system and is able to provide recordings in a viewable format to any authorised authority on request.*
4. *There will be signage in the premises, clearly visible to members of the public, which states that CCTV is in operation.*
5. *The Premises will have a zero tolerance to drugs policy. Drugs found will be placed in a suitable locked receptacle kept for that purpose. Means for securing and unlocking the receptacle will be held by the Premises Licence Holder or a nominated responsible person. A record shall be made of the date and time of the find, the person who made the find and the person who secured the found item(s). This record will be made available to any authorised authority on request.*
6. *The Premises Licence Holder shall make suitable arrangements with the police for the collection of any found items as soon as possible after they are found.*
7. *There will be a duty of care policy formulated towards persons who are refused admission or ejected from the premises*

7.3 Trading Standards requested additional conditions in relation to the challenge 25 scheme: The following were proposed and agreed with the applicant:

- *Challenge 25, proxy sales and individuals' responsibilities under the Licensing Act 2003 (Added as an addition condition within the staff training section)*
- *Refresher training to be provided on an annual basis (for all staff training)*
- *Challenge 25 condition amended to include 'with appropriate signage displayed at the points of sales'.*
- *New condition, A refusals log will be maintained and made available to any responsible authority upon request. The refusals log can be kept either electronically or in a hard backed/bound book.*

7.4 There are no outstanding representations from Responsible Authorities.

8. Representations received (Other Persons)

8.1 Two objections have been received off other persons, who have concerns in respect of the four licensing objectives. The representation map displays the location of representations in relation to the premises. (A copy of the 'other persons' location map can be found at **Appendix G**).

8.2 Principally the concerns relate to the additional times, outside alcohol sales and regulated entertainment due to the removal of trees having changed the sound attenuation of the venue. It is also claimed that there has been a previous noise abatement order at the venue and a previous licensing hearing to control noise elements, as per the current Annex 3 conditions. (Representations can be found at **Appendix H – I**).

8.3 All aspects of representations have been accepted, for consideration, giving the benefit of the doubt to the person/s making the representation to allow them to amplify or clarify at the hearing.

8.4 There has been negotiations during the consultation period in order to remove the need for a hearing, but representations have not been withdrawn and the applicant has indicated they wish to continue with the application as submitted and accordingly amended.

9. Options for Consideration

9.1 The options available to the Licensing Sub-Committee having considered all the relevant information are as follows:

- To refuse to grant the application
- To grant the application with (or without) conditions in full (or in part)

9.2 If the application is to be granted in line with the submitted operating schedule as detailed in paragraph 6 and amendments/additions/conditions as agreed

with authorities detailed in paragraph 7 of this report would need to be included in the licence, if deemed necessary, with an appropriate decision.

9.3 Additional conditions or restrictions to licensable activities and/or times should only be imposed if considered appropriate for the promotion of the licensing objectives. If other law already places certain statutory responsibilities on a premises, it would not be appropriate to impose similar duties.

9.4 Members of the Sub-Committee should be advised that the applicant or any other person who made relevant representations in relation to the application may appeal against the decision made to the Magistrates' Court within 21 days of the date on which they were notified.

10. Standard of Decision Making

10.1 In accordance with the provisions of the Licensing Act 2003 and the Council's scheme of delegation, all applications where a relevant representation has been made need to be determined by this Sub-Committee.

10.2 When determining the application, the Sub-Committee should only consider issues, which relate to the four licensing objectives. The licensing objectives are:

- The prevention of Crime and Disorder
- Public Safety
- The prevention of a Public Nuisance
- The protection of Children from Harm

10.3 Members of the Sub-Committee must have regard to the statutory guidance issued under section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy. Members of the Sub-Committee may deviate from the statutory guidance and licensing policy only if they deem that there is good reason to do so.

10.4 Members of the Sub-Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the licence and shall only determine the application having had an opportunity to consider all relevant facts.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Licensing Act 2003

<https://www.legislation.gov.uk/ukpga/2003/17/contents>

Guidance issued under section 182 of the Licensing Act 2003 (December 2022)

[Revised guidance issued under section 182 of the Licensing Act 2003 \(December 2022\) \(accessible\) - GOV.UK \(www.gov.uk\)](#)

The Licensing Act 2003 (Hearings) Regulations 2005
<https://www.legislation.gov.uk/ukxi/2005/44/contents/made>

The Licensing Act 2003 (Hearings) (Amendment) Regulations 2005
<https://www.legislation.gov.uk/ukxi/2005/78/made>

Shropshire Council Licensing Policy 2019 – 2024
<https://www.shropshire.gov.uk/media/12345/statement-of-licensing-policy-2019-to-2024.pdf>

Cabinet Member (Portfolio Holder)

Cllr Richard Marshall PFH (Highways and Regulatory Services)

Local Member/s

Cllr C. Wild

Appendices

Appendix A – Location map

Appendix B – Location photographs

Appendix C – Current Licence

Appendix D – Current plan

Appendix E – Application (full variation)

Appendix F – Proposed plan

Appendix G - Location of 'other persons' representation map

Appendix H – Representation Biggs

Appendix I – Representation Nock's