



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: Nomad Wine, Unit 2,3 & 4 Betton Mill, Betton Road, Market Drayton, Shropshire, TF9 1HH

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 Nomad Wine, Unit 2,3 & 4 Betton Mill, Betton Road, Market Drayton, Shropshire, TF9 1HH.

6. Background

6.1 Nomad Wine Limited have made an application for a variation of their premises licence. The premises operates click and collect, retail sales and events, but would now like the option to allow walk- ins like a café/ food & drinks venue.

The current premises licence covers the ground floor of Units 2,3 & 4 at Betton Mill and is situated to the North- East of Market Drayton, adjacent to the Shropshire Union Canal.

The original licence was granted in July 2021 for click and collect/ internet sales of alcohol for consumption off the premises. Nomad Wine Limited's current licence was varied in March 2022 to add units 2/3 and on sales.

From a Licensing perspective there hadn't been any historic complaints until January 2023 when it was alleged that the premises were open for non-events. The licence holder worked with the Licensing Authority and accordingly submitted a full variation application and numerous TENS (Temporary Event Notices) during the interim period.

During consultation, amendments were made by the applicant due to representations received off Trading Standards, Environmental Protection, the Licensing Authority and 'other persons'.

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

Opening hours

Monday to Sunday 09:00 – 22:30

Supply of alcohol (both on and off sales)

Monday to Sunday 09:00 – 22:00

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

- Remove the condition with prevention of public safety 'Public will be allowed on our premises for click and collect, to purchase from the retail shop or attend an event'.
- Add an outdoor seating area for alcohol consumption.
- There are no proposals to change the nature of the current premises, so click and collect, retail sales and events would continue.

Opening hours

Monday to Sunday 09:00 – 22:30

Supply of alcohol (both on and off sales)

Monday to Sunday 09:00 – 22:00

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

6.4.1 Prevention of crime and disorder

- The Premises will have a zero tolerance to drugs policy, the Licence Holder shall display notices at the entrances to the premises advising attendees that the police will be informed if anyone is found in possession of controlled substances.
- 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.
- 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.

6.4.2 Prevention public nuisance

- The outdoor consumption area will be clear of patrons by 21:30 daily.

7. Representations received (Responsible Authorities)

7.1 Representations were received off Trading Standards, Environmental Protection and the Licensing Authority. These have all been withdrawn following an agreement of additional conditions.

7.2 Trading standards requested additional challenge 25 conditions. The following were proposed and agreed with the applicant:

An additional condition stating:

- A challenge log for Challenge 25 and refusals will be maintained and made available to any authorised authority on request. The challenge log can be kept either electronically or in a hard backed/bound book.

Ref current condition 5, can this please be expanded, and split into two conditions as follows:

- A Training on Challenge 25 procedures, proxy sales and individuals' responsibilities under the Licensing Act 2003 will be held for all persons involved in the supply of alcohol, prior to engaging in the serving of alcohol and within 14 days of them commencing this role.
- Refresher training on Challenge 25, proxy sales and their responsibilities under the licensing act 2003 to be provided no less than annually. Training records retained and available at the premises to any authorised authority on request.

7.3 Environmental Protection requested additional conditions in relation to the outside area. The following were proposed and agreed with the applicant:

- No glass bottles shall be placed into external bins between the hours of 20:30 and 08:00 the next day.
- The consumption area as shown in the plan (6m by 3m) shall be delineated by barriers or similar fixed structure to contain patrons thereby preventing overspill and expansion of the area
- No drinking vessels containing alcohol to be taken beyond the licensed area, apart for consumption in the external area as shown in the plan
- The consumption area is to be cleared of all patrons by 21:30.
- Clear signage to be placed in a prominent position in the consumption area reminding patrons that they are in a residential area and to be mindful of neighbours.

7.4 Licensing Authority requested more clarification and agreed:

- No open drinks containers will be permitted to be removed from the premises with the exception of those being used in the outdoor consumption area as defined by the licence plan
- Bottles of wine which have been purchased and opened for consumption on the premises but not finished by a customer may be resealed with a stopper and taken home by that customer

7.5 There are no outstanding representations from Responsible Authorities.

8. Representations received (Other Persons)

8.1 Six objections were received off other persons, who have concerns in respect of the four licensing objectives. Principally the concerns relate to the additional non- event times and the outside consumption as both could cause a noise disturbance.

8.2 Four of these objections have since been withdrawn due to the following agreements with the applicant:

- Removal of the outside consumption area off the plan
- Reduction of on sales times
- Removal of the responsible authorities' external conditions, to replace with one condition which prevents open containers leaving the licensed premises (instead of the outside seating area)

(A copy of the final plan can be found at **Appendix G**).

8.2.1 New agreed opening and supply of alcohol hours for separate on and off sales:

Opening hours

Monday to Sunday 09:00 – 22:30

Supply of alcohol (off sales)

Monday to Sunday 09:00 – 22:00

Supply of alcohol (on sales)

Wednesday to Saturday 12:30 – 22:00

Sundays (during summer months only) 12:30 – 18:00

8.2.2 Agreed conditions to replace conditions in paragraph 7.3 and 7.4 of the report:

-No glass bottles shall be placed into external bins between the hours of 20:30 and 08:00 the next day.

-No open drinks containers will be permitted to be removed from the premises with the exception of bottles of wine which have been purchased and opened for consumption on the premises but not finished by a customer, these may be resealed with a stopper and taken home by that customer.

(A copy of the applicant's proposals to the 'other persons' can be found at **Appendix H**).

8.3 The representation map displays the location of the outstanding two representations in relation to the premises. (A copy of the 'other persons' location map can be found at **Appendix I**).

8.4 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. (The outstanding two representations can be found at **Appendix J – K**).

8.5 There has been negotiations during the consultation period in order to remove the need for a hearing, but two representations are outstanding. The applicant has indicated they wish to continue with the amended version of the application, with the amendments agreed with authorities and four of the six 'other persons'.

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 the amendments/additions/conditions as agreed with trading standards (7.2 of report) and 'other persons' (8.2 of report) then these 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/uksi/2005/44/contents/made>

The Licensing Act 2003 (Hearings) (Amendment) Regulations 2005

<https://www.legislation.gov.uk/uksi/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 R. Aldcroft

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 – Final plan

Appendix H – Applicant's proposals to the 'other persons'

Appendix I - Location of 'other persons' representation map

Appendix J – Representation Sale

Appendix K – Representation Bools