

Shropshire Council  
Legal and Democratic Services  
Shirehall  
Abbey Foregate  
Shrewsbury  
SY2 6ND

Date: Thursday, 9 October 2014

**Committee:  
Licensing Act Sub-Committee**

**Date: Tuesday, 21 October 2014**

**Time: 10.00 am**

**Venue: Ludlow Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND**

You are requested to attend the above meeting.  
The Agenda is attached

Claire Porter  
Head of Legal and Democratic Services (Monitoring Officer)

**Members of Licensing Act Sub-Committee**

Vernon Bushell  
Peter Cherrington  
Andrew Davies

Your Committee Officer is:

**Emily Marshall** Committee Officer

Tel: 01743 252726

Email: [emily.marshall@shropshire.gov.uk](mailto:emily.marshall@shropshire.gov.uk)

# AGENDA

**1 Election of Chairman**

To elect a Chairman for the duration of the meeting.

**2 Disclosable Pecuniary Interests**

Members are reminded that they must not participate in the discussion or voting on any matter in which they have a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

**3 Application for a Review of a Premises Licence - Magdalenka, 10-12 Shropshire Street, Market Drayton, Shropshire (Pages 1 - 12)**

Report of the Public Protection Officer (Specialist) is attached, marked 3.  
Contact Simon Ditton on 0345 6789026



<u>Committee and Date</u>
Licensing Act Sub-Committee
Tuesday 21 <sup>st</sup> October 2014 at 10.00 am

<u>Item</u>
<b>3</b>
Public

## LICENSING ACT 2003 APPLICATION FOR A REVIEW OF A PREMISES LICENCE

**Responsible Officer** Simon Ditton, Public Protection Officer (Specialist)  
e-mail: [licensing@shropshire.gov.uk](mailto:licensing@shropshire.gov.uk) Tel: 0345 6789026

### 1. Summary

To consider an application for a review of a Premises Licence.

Premises: Magdalenka, 10-12 Shropshire Street, Market Drayton, Shropshire, TF9 3BY. A location plan is attached to the report as Appendix A.

Shropshire Council being the authorised licensing authority for the above premises has received an application for a premises licence.

The application has been accepted as a valid application. The application is 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.

After considering all the relevant issues the licensing authority may grant

- take no further action
- issue informal/formal warnings to the Designated Premises Supervisor and/or Premises Licence holder
- modify conditions of the licence
- exclude a licensable activity from the scope of the licence
- remove the designated premises supervisor
- suspend the licence for a period not exceeding three months
- revoke the licence

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 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, licence holder and the parties/authorised bodies making relevant representations.

That the Sub-Committee determines the application in accordance with the options in paragraph 7.

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 any action on the licence holder's human rights.

### **4. Financial Implications**

None.

### **5. Purpose of Report**

To consider an application for a review of the Premises Licence for Magdalenka, 10-12 Shropshire Street, Market Drayton, Shropshire, TF9 3BY.

### **6. Background**

6.1 Shropshire Council Public Protection, Trading Standards, has made an application for a review of a Premises Licence on the grounds that operations at the premises undermine the Prevention of Crime and Disorder and Protection of Children from Harm Licensing Objectives. The application is supported by evidence of illicit tobacco products being discovered at the premises on at least 3 separate occasions and a complaint of sale of tobacco to 15 year old at the premises.

6.2 The Premises Licence was first granted on 10<sup>th</sup> July 2013 (Premises Licence Number PL/SC29723). The current Premises Licence holder and designated

premises supervisor is Miss Elina Pole (the Licence being formally transferred on 18<sup>th</sup> March 2014).

- 6.3 On 6<sup>th</sup> March 2014 illicit tobacco products were discovered on an inspection by Shropshire Council Public Protection Investigations team members. The products were seized.
- 6.4 A complaint was received in May 2014 by West Mercia Police from a resident, that her 15 year old son had been able to purchase tobacco from the premises (the complainant has provided a witness statement to the Council).
- 6.5 On 11<sup>th</sup> June 2014 further illicit tobacco products were discovered on an inspection by Shropshire Council Public Protection Investigations team members. The products were seized.
- 6.6 On 29<sup>th</sup> July 2014 further illicit tobacco products were discovered on an inspection by Shropshire Council Public Protection Investigations team members. The products were seized.
- 6.7 The current application was then submitted.

## **7. Objections Received (Responsible Authorities)**

- 7.1 A representation has been received from the Chief Officer of the Police supporting the review. This representation has not been withdrawn.
- 7.2 A comment has been received from the Director of Public Health supporting the review.

## **8. Objections Received (Other Interested Parties)**

- 8.1 No formal representations have been received in response to the application from other interested parties.

## **7. Options for Consideration**

- 7.1 The options available to the Licensing Sub-Committee having considered all the relevant information are as follows:
  - take no further action
  - issue informal/formal warnings to the Designated Premises Supervisor and/or Premises Licence holder
  - modify conditions of the licence
  - exclude a licensable activity from the scope of the licence
  - remove the designated premises supervisor
  - suspend the licence for a period not exceeding three months
  - revoke the licence
- 7.2 Members of the Sub-Committee should be advised that the applicant, licence holder 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.

## 8. Standard of Decision Making

- 8.1 In accordance with the provisions of the Licensing Act 2003 and the Council's scheme of delegation, all applications for a review of a Premises Licence have to be determined by this Sub-Committee.
- 8.2 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
- 8.3 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.
- 8.4 Members of the Sub-Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the applicant and/or the licence holder 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)**

Shropshire Council Licensing Policy.  
 Guidance issued under section 182 of the Licensing Act 2003 (June 2014).  
 The Licensing Act 2003 (Hearings) Regulations 2005.  
 Application form and associated papers.  
 Copies of representations received

### **Cabinet Member (Portfolio Holder)**

Cllr S Charmley

### **Local Member**

Cllr D Minnery & Cllr R Hughes

### **Appendices**

Appendix A – Location Plan  
 Appendix B – Current Licence



# Magdalenka

Location Plan



Date: 24/09/2014

This page is intentionally left blank



# Premises Licence WITH Alcohol

Licensing Act 2003

# PL/SC29723

**This Licence is Issued by**



Licensing Team  
Shirehall  
Abbey Foregate  
Shrewsbury  
Shropshire SY2 6ND

web: [www.shropshire.gov.uk](http://www.shropshire.gov.uk)  
Tel.: 0345 678 9000

## Part 1 - Premises Details

### Postal Address of Premises, or if none, Ordnance Survey Map Reference or Description

Magdalenka  
10-12 Shropshire Street, Market Drayton, Shropshire, TF9 3BY

**Where the licence is time limited, the dates** - Not Applicable

### Licensable activities authorised by the licence:

Supply of Alcohol

### The Opening Hours of the Premises

Mon - Sun 08:00-21:00

### The times the licence authorises the carrying out of licensable activities

Supply of Alcohol	Mon - Sun 08:00-21:00
-------------------	-----------------------

### Where the Licence Authorises Supplies of Alcohol whether these are on and/or off Supplies

Off Premises

## Part 2

### Name, (Registered) Address, Telephone Number and eMail (Where Relevant) of Holder of Premises Licences

Miss Elina Pole  
10-12 Shropshire Street, Market Drayton,

KLB

Page - 1 - of 6

Shropshire, TF9 3BY

**Registered Number of Holder, For Example Company Number, Charity  
Number (Where Applicable)**

**Name, Address and Telephone Number of Designated Premises Supervisor Where the Premises Licence Authorises  
the Supply of Alcohol**

Miss Elina Pole

10-12 Shropshire Street, Market Drayton, Shropshire, TF9 3BY

**Personal Licence Number and Issuing Authority of Personal Licence held by Designated Premises Supervisor Where  
the Premises Licence Authorises for the Supply of Alcohol**

Licence No.: PA/SC32342

Issued by: Shropshire

## Annexes

### Annex 1 - Mandatory Conditions

#### For the supply of alcohol

No supply of alcohol may be made under the premises licence -

- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or their personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

#### Door Supervision

Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must be licensed by the Security Industry Authority.

#### Mandatory Drinks Code Conditions

1. The responsible person shall take all reasonable steps to ensure that staff do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. An irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children:
  - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
  - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on:
    - (i) the outcome of a race, competition or other event or process, or
    - (ii) the likelihood of anything occurring or not occurring;
  - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
4. (i) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
  - (ii) The policy must require individuals who appear to the responsible person to be under 18 years of age

---

(or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

5. The responsible person shall ensure that:

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

## **Annex 2 - Conditions consistent with the operating schedule**

### **Prevention of Crime & Disorder**

1. Internal and external CCTV will be in operation on the premises with images being retained for 31 days;
2. All staff involved in the sale of alcohol will have fully recorded and documented training, including refresher courses;
3. All staff will be trained in the use and chronicled storage of CCTV;
4. All training records will be retained and made available on request by an authorised Officer.

### **Prevention of Public Nuisance**

Staff will at all times be vigilant in relation to any litter issues.

### **Protection of Children From Harm**

1. Any alcohol to be sold on the premises will not be obstructed from the view of the sales assistants;
2. A 'Challenge 25' Policy will be in place;
3. A sales refusal and incident book will be fully maintained and available for inspection at any time;
4. The alcohol display area will be situated away from the soft drinks, crisps and confectionery.

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

Not applicable

## **Annex 4 – Plans**

Drawing No: MAGDALENKA-02 Dated: 07.06.13

# Premises Licence WITH Alcohol Summary

Licensing Act 2003

# PL/SC29723

## This Licence is Issued by



Licensing Team  
Shirehall  
Abbey Foregate  
Shrewsbury  
Shropshire SY2 6ND

web: [www.shropshire.gov.uk](http://www.shropshire.gov.uk)  
Tel.: 0345 678 9000

## Premises Details

### Postal Address of Premises, or if none, Ordnance Survey Map Reference or Description

Magdalenka  
10-12 Shropshire Street, Market Drayton, Shropshire, TF9 3BY

**Where the licence is time limited, the dates** - Not Applicable

### Licensable activities authorised by the licence:

Supply of Alcohol

### The Opening Hours of the Premises

Mon - Sun 08:00-21:00

### The times the licence authorises the carrying out of licensable activities

Supply of Alcohol

Mon – Sun 08:00-21:00

### Where the Licence Authorises Supplies of Alcohol whether these are on and/or off Supplies

Off Premises

### Name, (Registered) Address of Holder of Premises Licences

Miss Elina Pole  
10-12 Shropshire Street, Market Drayton, Shropshire, TF9 3BY

**Registered Number of Holder, For Example Company Number, Charity  
Number (Where Applicable)**

**Name of Designated Premises Supervisor Where the Premises Licence Authorises  
the Supply of Alcohol**

Miss Elina Pole