



Licensing Sub-Committee
Tuesday 24th October 2023

Wilfred Owen 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: The Tumbledown Hotel and Albion Bar, 10 and 11 Castle Foregate, Shrewsbury, Shropshire, SY1 2DJ

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 The Tumbledown Hotel and Albion Bar, 10 and 11 Castle Foregate, Shrewsbury, Shropshire, SY1 2DJ

6. Background

6.1 Shropshire Beer Limited have made an application for a variation of the premises licence. The premises operates as a public house with the hotel undergoing a refurbishment.

The original licence was granted in February 2013, Shropshire Beer Limited transferred the licence in July 2018. A full variation application was granted in 2021 to allow interior changes and additional licensable hours, followed by a minor variation in 2022 to add new licensing conditions at the request of responsible authorities.

The premises is situated on Castle Foregate in the town of Shrewsbury, opposite the entrance to the railway station. The current premises licence

covers the ground floor of number 11 and a small courtyard to the rear. The sales of alcohol allow for consumption both on and off the premises, regulated entertainment is permitted indoors only.

The applicant has recently purchased the adjoining building, number 10 Castle Foregate which was most recently occupied by The Shrewsbury Ark. The application is to increase the licensable area into the ground floor of number 10 and incorporate the rear yards and pavement areas of both premises. The applicant has also applied for regulated entertainment to be extended to the outdoor areas.

During consultation, amendments have been made by the applicant due to representations received off the Police and Environmental Protection and Twenty-three 'other persons', namely neighbouring residents.

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

Opening hours

Sunday to Thursday 06:00 – 00:30 the following day
Friday and Saturday 06:00 – 01:30 the following day

Additional hours granted for all licensable activities – end time of 01:00 on the following morning Fridays, Saturdays, Sundays and Mondays on a Bank Holiday weekend and for Christmas Eve and Boxing Day. End time on New Year's Eve is start time on New Year's Day.

Supply of alcohol (both on and off sales)

Sunday to Thursday 08:00 – 00:00
Friday and Saturday 08:00 – 01:00 the following day

Late night refreshments (indoors)

Sunday to Thursday 23:00 – 00:00
Friday and Saturday 23:00 – 01:00 the following day

Performance of dance (indoors)

Sunday to Thursday 23:00 – 00:00
Friday and Saturday 23:00 – 01:00 the following day

Exhibition of Films (indoors)

Sunday to Thursday 08:00 – 00:00
Friday and Saturday 08:00 – 01:00 the following day

Indoor Sporting Events

Sunday to Thursday 23:00 – 00:00

Friday and Saturday 23:00 – 01:00 the following day

Plays (indoors)

Sunday to Thursday 23:00 – 00:00

Friday and Saturday 23:00 – 01:00 the following day

Live music (indoors)

Sunday to Thursday 23:00 – 00:00

Friday and Saturday 23:00 – 01:00 the following day

Recorded music (indoors)

Sunday to Thursday 23:00 – 00:00

Friday and Saturday 23:00 – 01:00 the following day

Anything of a similar description (indoors)

Sunday to Thursday 23:00 – 00:00

Friday and Saturday 23:00 – 01:00 the following day

- 6.3 The variation application (**Appendix E**) and proposed Plan (**Appendix F**) seek to amend the following:
- Increase the licensable area to include the ground floor of 10 Castle Foregate, previously The Shrewsbury Ark. Internal doors will separate 10 and 11, with a new pool area and breakfast snug proposed.
 - Increase the licensable area to incorporate the entire rear yards of both 10 and 11 Castle Foregate.
 - Increase the licensable area to incorporate the pavement areas at the front of both 10 and 11 Castle Foregate.
- 6.4 No new conditions have been identified by the applicant to promote the four licensing objectives, all current conditions to remain.
- 6.5 The applicant has not requested any increased hours for any licensable activities or opening hours.

7. Representations received (Responsible Authorities)

7.1 Representations were received off the Police and Environmental Protection, while Planning and Fire and Rescue made comment. These have been withdrawn following an agreement of additional conditions.

7.2 Police requested additional CCTV wording and new conditions to incorporate the pavement area to the front of the premises. The following were proposed to replace the current 12 conditions within prevention of crime and disorder. The applicant has agreed to the following:

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 to which public have access, including the new / extended area (this will be with the exception of the toilets), 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. On request means at the time of the request, in a format which is viewable remotely and not dependent on the premises CCTV system.

3. There will be signage in the premises, clearly visible to members of the public, which states that CCTV is in operation.

4. 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.

5. 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 at least one registered SIA door supervisor on duty at the premises from 22:30 hours onwards until close on all Fridays and Saturdays and nights proceeding nationally recognised public holidays (This will include Christmas Eve and New Year 's Eve).

8. Between 22:30 hours and 23:00 hours the door supervisor will perform a check on the entire premises to ensure all is in good order. This check and any findings will be recorded in a log kept for this purpose which shall be

retained and made available to the police of authorised officers, as defined by the licensing act 2003, on request.

9. From 23:00 hours the door supervisor will operate challenger 25 on the door before permitting entry to the premises.

10. On all Fridays, Saturdays and nights preceding nationally recognised public holidays, there will be a personal licence holder on the premises from 18:00 onwards when licensable activities are taking place.

11. At all other times the need for door staff shall be risk assessed by the designated premises supervisor and employed when the risk assessment deems it necessary. Advice from West Mercia Police will be taken when formulating the risk assessments. These risk assessments will be recorded and kept for a period of 12 months and made available to any authorised authority on request.

12. Incidents of crime and / or disorder will be recorded and reported to police as soon as practicable. Copies of these records will be provided to any authorised authority on request. The record will contain full details of persons reporting and any victims along with times and circumstances of the incident.

13. There will be a duty of care policy formulated towards persons who are refused entry to / ejected from the premises.

14. No persons carrying open bottles containing alcohol will be allowed to enter or leave the premises during the hours it is open to the public

15. Drinks will not be removed from the premises in open containers except into the rear courtyard (as defined by the premises plan) or into any area covered by a valid pavement permit or licence.

16. Drinks taken onto any pavement permit / licence area will be decanted into toughened, polycarbonate or plastic “glassware”.

17. Any outside furniture used on any pavement permit / licence area will be removed and securely stored when not in use.

18. Any outside furniture used on any pavement permit / licence area will be kept clear of all empty receptacles.

19. Any cutlery / tableware provided for any pavement permit / licence area will only be provided when needed and not left on tables.

20. No glass will be allowed to be removed from inside the premises except into the rear courtyard (as defined by the premises plan).

21. Any pavement permit / licence area will be monitored by staff when in use. Staff will ensure that patrons in these areas behave in an orderly and considerate manner.

22. Staff will ensure no vertical drinking takes place in any pavement permit / licence area. This is to prevent any risk to customers and members of the public due to the proximity of the main road.

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

1. Modify condition 2 under Prevention of Public Nuisance on existing Licence 22/04165/LMVPRE (The external area to the rear of the premises will be clear of patrons by 23:20. After 23:00 no patron who is not already using the external area will be permitted to go out) to now read:

All external areas covered by the Premises Licence to both the front and rear of the Premises shall be cleared of Patrons by 23:00.

2. New condition:

No alcohol in open containers to be taken into external areas or consumed in external areas after 23:00 until the start of trading the next day.

7.4 Planning stated “In commenting on the above mentioned licensing application as a responsible authority I can advise that planning do not object to a licence for the sale of alcohol being issued”.

The proposals are to incorporate 10 Castle Gates into the existing Public House (11 Castle Foregate).

The existing use for 11 Castle Foregate is currently a public house which falls within the use class Sui Generis (pub or drinking establishment) whereas 10 Castle Foregate which was previously the Shrewsbury Ark which falls within the use class E (Clinics, health centres, creches, day nurseries, day centre) and therefore the applicants would require planning permission for a change of use.

7.5 - Shropshire Fire and Rescue Service would like to make the following comments. These should not be considered a representation.

The rear escape route from Tumbledown, into the yard at the rear of Chester House, has been the subject of on-going civil matters for some time. Matters in relation to Wayleave agreements are not for the Fire Service to pass comment however, it is an expectation that the Responsible Person carries out a suitable and sufficient Fire Risk Assessment which reflects the escape capability of the premises.

Therefore, should the rear escape route into Chester House' land not be available, the Fire Risk Assessment must determine the safe occupancy of the premises without the use of this route. Any matters relating the availability, or sudden loss, of the route are a Civil matter and are for the Responsible Person to manage through their Fire Risk Assessment until a formal resolution has been achieved.

In considering Part C, public safety, we would expect the Fire Risk Assessment be definitive on the availability of the rear external fire escape and determine the occupancy of the premises based upon this.

We note that the licensing plan deposited indicates that the adjoining premises are to be opened into Tumbledown, at least at ground level. These plans may offer an opportunity for Tumbledown to maximise their occupancy without a reliance on the rear escape route through Chester House. We would encourage Mr. Jones in conjunction with a suitably competent person, if not already done so, to explore the potential of additional escape routes within the premises, having acquired the neighbouring building, which may obviate a reliance on escape routes at the rear of the premises and across the adjoining land.

7.6 There are no outstanding Responsible Authorities representations.

8. Representations received (Other Persons)

8.1 Twenty-Three objections have been received off other persons, who have concerns predominantly in respect of Public Nuisance. 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 proposal of the rear yard of 10 and 11 Castle Foregate being licensed as this will impact of the neighbouring properties, also safety concerns in relation to the fire exit (Shropshire Fire and Rescue comments can be found in 7.5 of report).

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 Following the consultation period the applicant has attempted to negotiate with the nearby residents in order to remove the need for a hearing. The applicant wrote to the objectives to try and calm the expressed fears, advising of the new agreed closing time of the rear yard agreed with Environmental Protection and amending the plan to only licence indoors, including the removal of currently licensed small courtyard to the rear (A copy of the letter and new proposed plan can be found at **Appendix H and I**).

8.5 Five representations were withdrawn, the applicant has indicated they wish to continue with the application as submitted and accordingly amended. (The eighteen outstanding representations can be found at **Appendix J – 1 to 18**).

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 (August 2023)
[Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](#)

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 Chris Schofield PFH (Planning and Regulatory Services)

Local Member/s

Cllr N. Green

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 – Applicants letter to 'other persons'

Appendix I – Amended plan following 'other persons' representations

Appendix J (1 -18) – Representations of 'other persons'