

SHROPSHIRE COUNCIL

LICENSING ACT SUB-COMMITTEE

Minutes of the meeting held on 18 May 2015
Times Not Specified in the Shrewsbury Room, Shirehall, Abbey Foregate,
Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Emily Marshall
Email: emily.marshall@shropshire.gov.uk Tel: 01743 252726

Present

Councillor

Councillors Vernon Bushell, Michael Wood and Simon Jones

1 Election of Chairman

RESOLVED:

That Councillor Michael Wood be elected Chairman of the Licensing Act Sub-Committee for the duration of the meeting.

2 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had 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 - Ashley's Wine Bar, 9 Shoplatch, Shrewsbury

Consideration was given to an application for a Review of a Premises Licence in respect of Ashley's Wine Bar, 9 Shoplatch, Shrewsbury.

Ms Louise Prince (Solicitor – Shropshire Council), Mr Simon Ditton (Public Protection Officer Specialist – Shropshire Council), Mr James Tawn (Public Protection Officer – Technical Support – Shropshire Council) Mr Grant Tunnadine (Team Manager Investigations – Shropshire Council), Martin Key (Environmental Health Officer, Shropshire Council), PC Kevin Roberts (West Mercia Police Representative), Mrs Lucy Whitaker (Applicant), Mr Stuart Harbord-Suffield (Applicant), Nigel Harrison (Representing Mike Evans -Secretary to Shrewsbury Town Centre Residents Association), James Anderson (Representing Mrs M Edwards - Witness), Alison Bacari (Local resident and Interested Party), Alan Shrank (Interested Party), Mr Peter Stuart (Representing Roger Hughes), Councillor Andrew Bannerman (Local Ward Councillor), Robin Cheadle (Door Supervisor at Ashley's Wine Bar), Mr Tom Robinson (Managing Director Eagle Specialist Protection Ltd), Kevin Horrock (Witness for Ashley Davies), Mrs Lisa Davies (Licence Holder), Mr Ashley Cartwright Davies (Licence Holder) and Mr Richard Goodchild (Scheme Manager, Safer Shrewsbury Pub and Shop Watch Partnership) were present.

Mrs Lucy Whitaker and Mr Stuart Harbord-Suffield (Joint Applicants) addressed the Sub-Committee, outlining their grounds for a review of the Premises Licence. The applicant's explained how the licensee was in frequent breach of the premises licence and operations at the Premises undermined the licensing objections through the drinking of alcohol outside the premises after permitted hours, the pavement space outside the premises being overcrowded, causing pedestrians to walk on the road and loud blasts of music when the door to the premises was opened and also from the use of the outside seating area, past the hours permitted.

The applicants put forward suggested improvements that could be made, which included regular enforcement checks to ensure compliance with Condition 2, the reconciliation of conflicting trading times, only playing background music, all music to cease at 23:00 hours and regular staff monitoring of the outside seating area.

Mr Anderson, representing Mrs Edwards (witness) addressed the Sub-Committee.

Mr Nigel Harrison, representing Mr Mike Evans (witness) addressed the Sub-Committee stating that the concerns relating to public safety and the safe use of the pavement would be made worse when undergraduates started to live within the town centre.

Mr Alan Shrank (Interested Party) addressed the Sub-Committee stating that his concerns related to seating being placed in the public highway and noise on the streets during the evenings and at night. He had heard loud music from Ashley's Wine Bar well past midnight

Mrs Lucy Whitaker read out a witness statement from Mr Giles Whitaker who was unable to attend the Hearing. In his statement Mr Whitaker expressed concern at the detrimental effect the loud music was having on the Bed and Breakfast business he ran

Mr Peter Stewart, read out a witness statement from Mr Roger Hughes who was unable to attend the Hearing.

Alison Bachari, a local resident addressed the Sub-Committee stating that as a local resident, she avoided walking past Ashley's Wine Bar as she felt intimidated by the customers drinking outside the premises.

The Public Protection Officer (Specialist) addressed the Sub-Committee, reminding the Sub-Committee that although they were aware of the two statutory regimes in operation, they should only consider issues relating to the premises licence.

The Environmental Health Officer addressed the Sub-Committee, stating that some of the solutions proposed by the applicants were be more correctly controlled under the pavement permit regime, clarifying that the pavement permit, was designed to ensure pedestrian and road safety and the premises licence was specific to the Licence Holder.

PC Kevin Roberts, West Mercia Police addressed the Sub-Committee. PC Roberts explained that incidents of crime, disorder and anti-social behaviour in the area were extremely low and there had been no reported issues at Ashley's Wine Bar.

Councillor Bannerman, objector addressed the Sub-Committee and questioned how enforcement was dealt with by the authority. In response the Environmental Health Officer explained that enforcement was undertaken once or twice per week within the town centre, working jointly with the Police. It was confirmed that Ashley's Wine Bar had been visited on 4 or 5 occasions during the last twelve months.

In response to questions from the applicant, the Licence Holder and other interested parties the Environmental Health Officer confirmed that:

- The Licence Holder had made regular contact with Shropshire Council, had been cooperative and had regularly checked that he was operating within the terms of the Premises Licence;
- The pavement permit would be displayed at the Premises and had the Council's Telephone number on it, so that members of the public could telephone if there were any problems to report;
- The problems arising from sound bursts when the door to the premises opened and closed could be addressed through a noise management plan.

In response to questions from the Licence Holder, the representative of West Mercia Police confirmed that, the Licence Holder had fully complied with all of the instructions from the Police Authority;

Mrs Davies (Licence Holder's wife) addressed the Sub-Committee. The Licence Holder stated that they had made a large financial commitment in the business and with the opening of several other venues within the area, day time trade had been affected and they relied on their night time trade to keep the business viable. Various measures had been put in place to lower the noise levels at the premises, this included moving speakers to the rear of the room, away from the bar area, emphasising to door staff that doors must be kept closed. The Licence Holder confirmed that they had invested in a decibel reader, and readings to support this were available. On two Fridays of each month, there was acoustic musicians playing at the venue and there was no live music on Sunday. All acts were informed of the measures that were in place. Decibel readings were taken before and during each act and were also taken outside the premises.

With regards to the pavement seating area, the area was swept, litter picked and the pavement washed down at the end of each day and bar staff were aware of the importance of keeping the outside tables clear at all times.

Mr Rob Cheadle, Door Supervisor at Ashley's Wine Bar (Witness for the Licence Holder) addressed the Sub-Committee, stating that since working at Ashley's Wine Bar he had not witnessed any incidents requiring assistance at the premises. A warning to drink up was given to customers sitting outside the seating area was given at 9.45 p.m. and at 10.00 p.m. the area was checked to ensure that there was no drinks outside the venue.

Mr Tom Robinson, Managing Director at Eagle Specialist Protection Ltd (Witness for the Licence Holder) addressed the Sub-Committee. During which he confirmed that Ashley's Wine Bar was a very professionally run venue, employing door staff despite there being no requirement within the premises licence for him to do so. The average age of customer being in the region of 35 – 45 years old and not a venue for younger drinkers.

Mr Richard Goodchild, Scheme Manager, Safer Shrewsbury Pub and Shop Watch Partnership (Witness for the Licence Holder) addressed the Sub-Committee, during his statement Mr Goodchild confirmed that since Ashley's Wine Bar opened five years ago there had been no incidents of anti-social behaviour.

Mr Kevin Horak, Managing Director Clearwater Specialist Projects Ltd (Witness for the Licence Holder) addressed the Sub-Committee, during his statement it was explained that Ashley's Wine Bar was mainly a couple's venue and was run in a very professional way.

In response to question from members of the Sub-Committee, the Licence Holder confirmed that:

- DJ nights were held on two Friday's each month, usually the first and last and the music would end by 00:30 hours, acoustic music evenings were held every Thursday, from 21:00 until 00:30 and on Sunday afternoons, no music at all was played on a Sunday evening and on Saturday evenings background music was played using an in-house music system;
- A noise limiter had been fitted, as recommended by the Council, which meant that if when the entertainer was performing noise levels were to go over the set limit, the power would automatically shut off;
- The Bar was not open on Sunday, Monday, Tuesday and Wednesday evenings, unless there was a private party;

The Chairman invited all parties to sum up and make any final comments prior to the Sub-Committee making a decision on the application.

Members of the Sub-Committee retired to consider the application in private, at 12.10 p.m. and reconvened at 12.32 p.m. to announce their decision.

RESOLVED:

The Sub-Committee had considered all of the documents submitted prior to the hearing and the representations made by the parties at the hearing. The Sub-Committee also took into account the Guidance issued under S182 of the Licensing Act 2003 and Shropshire Council's Licensing Policy.

The Sub-Committee did not consider it appropriate to reduce the opening hours and hours for licensable activities at the premises and they were not satisfied that there was sufficient evidence to suggest that the current operating hours would compromise the promotion of the licensing objectives. This was emphasised by the

Police and Environmental Health having no overriding concerns regarding the Premises.

Based on the evidence given, and in particular the steps already taken by the Premises Licence Holder to address the concerns over noise at the premises which had been raised by the Applicant, the Sub-Committee modified the Conditions of the licence (as recommended by Environmental Health) to include a requirement for the Premises Licence Holder to submit a Noise Management Plan to the Licensing Authority, details of which are as follows:

A noise management plan shall be submitted in writing to the Licensing Authority by 18 July 2015 for the written approval of the Licensing Authority. It shall detail the controls to be adopted to minimise noise escape from the premises associated with amplified and acoustic music and in any case to avoid nuisance to nearby residential premises. The noise management plan shall detail the methods and controls to be adopted to ensure compliance with the licence conditions and shall specifically include:-

- the scheduling and operating hours of all live acoustic and amplified music
- the location on the site and orientation of all acoustic instruments, amplification equipment and speakers
- all steps as necessary for attenuation of noise including sound-proof treatment of the building as necessary and appropriate
- specification and noise mitigation controls for all fixed amplification equipment
- management and supervision proposed to ensure compliance with the measures included in the noise management plan.

The controls and requirements of the noise management plan including any conditions attached to the written approval issued by the Licensing Authority shall be complied with at all times. This plan shall be subject to regular review and any changes necessary shall be submitted in writing to the Licensing Authority.

Further, for clarification, the Sub-Committee removed the following Conditions contained in Annex 2: point 5 under the Prevention of Crime and Disorder and Point 1 under Public Safety.

The Sub-Committee reminded the Premises Licence Holder of the Condition within Annex 2 that consumption of alcohol is not permitted in external areas after 10.00 p.m. and the need for this to be closely monitored.

Any party may appeal this decision to the magistrate's court within 21 days of the decision notice being received.

The parties were advised that the decision would be confirmed in writing within 7 days of the date of the hearing. Every party had the right of appeal against this decision to the Magistrates Court within 21 days of being notified of the decision.