

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

Date: Monday, 7 January 2019

Committee:
Licensing Act Sub-Committee

Date: Tuesday, 15 January 2019

Time: 10.00 am

Venue: Shrewsbury 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

Roy Aldcroft

Simon Jones

Dave Tremellen

Your Committee Officer is:

Shelley Davies Committee Officer

Tel: 01743 257718

Email: shelley.davies@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 Full Variation of a Premises Licence - Cromwells Restaurant and Wine Bar, 11 Dogpole, Shrewsbury, SY1 1EN

Report of the Public Protection Officer (Professional) is attached, marked 3.
Contact Jessica Moores on 0345 6789026



Committee and Date
Licensing Act Sub-
Committee
Tuesday 15th January 2019

Item
3
Public

LICENSING ACT 2003

APPLICATION FOR A VARIATION OF A PREMISES LICENCE

Responsible Officer Jessica Moores, Public Protection Officer (Professional)
e-mail: licensing@shropshire.gov.uk Tel: 0345 6789026

1. Summary

Shropshire Council being the authorised licensing authority for:

- Cromwell's Restaurant and Wine Bar, 11 Dogpole, Shrewsbury, Shropshire, SY1 1EN.

has received an application for a variation of the premises licence at the premises. A location plan is attached to the report as Appendix A.

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 Act 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 Statement of Licensing Policy 2014 - 2019.

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 2014 - 2019, 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 of the premises licence at Cromwell's Restaurant and Wine Bar, 11 Dogpole, Shrewsbury, Shropshire, SY1 1EN.

6. Background

6.1 Mr Michael Avery has made an application for a variation of the premises licence. Mr Avery is the premises licence holder and the Designated Premises Supervisor of the premises.

6.2 Cromwell's Restaurant and Wine Bar has had its current premises licence since 25 September 2018. The premises is a restaurant and wine bar which also offers accommodation located in Shrewsbury town centre. The premise is surrounded by a mix of residential and other commercial premises. Dogpole is a single lane highway with a current one-way system in operation and has footpath either side of the road.

6.3 The existing Premises Licence permits the following:

Supply of Alcohol (on and off premises)

Monday to Sunday 07:00 - 23:00

Opening hours

Monday to Sunday 07:00 – 00:00

6.4 The variation application seeks to amend the following:

Opening hours

Monday to Saturday 08:00 – 01:30

Sunday 08:00 – 00:30

Non Standard Timings

Christmas Eve and New Year's Eve to 03:00.

Supply of Alcohol (on and off premises)

Monday to Friday 10:00 – 01:00

Saturday 09:00 – 01:00

Sunday 09:00 – 00:00

Non Standard Timings

Christmas Eve and New Year's Eve to 03:00.

Films (Indoors)

Monday to Saturday 23:00 – 01:00

Sunday 23:00 – 00:00

Non Standard Timings

Christmas Eve and New Year's Eve to 03:00.

The applicant describes this as the showing of general release recorded films

Live Music (Indoors and outdoors)

Monday to Saturday 23:00 – 01:00

Sunday 23:00 – 00:00

Non Standard Timings

Christmas Eve and New Year's Eve to 03:00.

Live music outside will cease at 23:45

Recorded Music (Indoors and outdoors)

Monday to Saturday 23:00 – 01:00

Sunday 23:00 – 00:00

Non Standard Timings

Christmas Eve and New Year's Eve to 03:00

Recorded music outside will cease at 23:45

Late Night Refreshment (Indoors and outdoors)

Monday to Saturday 23:00 – 01:00

Sunday 23:00 – 00:00

Non Standard Timings

Christmas Eve and New Year's Eve to 03:00.

Late night refreshment will cease at 23:45

- 6.5 The applicant seeks the variation on the licence to extend licensing hours as he feels the extended hours reflect a previous licence granted to these premises which lapsed due to an administrative error.

- 6.6 The variation application seeks to remove the following conditions of the existing licence:

The outside bar shall not be used in connection with the sale of alcohol.

The applicant states that it is felt that the use of the outdoor bar to sell alcohol will assist in promoting the licensing objectives, rather than undermining them, as it will enable staff to more easily monitor activity in the garden.

- 6.7 The variation application seeks to amend condition 5 of the prevention of public nuisance conditions on the current licence, which is:

The garden will be cleared of all persons (customers and staff) by no later than 21:30 Sunday to Thursday and 23:00 Friday and Saturday, with rear doors closed at the same time as the garden.

- 6.8 The proposed amendment to the above condition is:

The garden will be cleared of all persons (customers and staff) by no later than 00:00 Monday to Sunday, with rear doors closed at the same time as the garden.

- 6.9 The variation application seeks to amend condition 6 of the prevention of public nuisance conditions on the current licence, which is:

All lights in the garden extinguished at 21:30 Sunday to Thursday and 23:00 Friday and Saturday, save for those required for emergency lighting.

- 6.10 The proposed amendment to the above condition is:

All lights in the garden extinguished at 00:00 Monday to Sunday, save for those required for emergency lighting.

7. Representations received (Responsible Authorities)

- 7.1 Representations were received from the Police and Environmental Health. These representations mainly relate to the prevention of Public Nuisance and

the impact amending the use of the external areas to permit live music, recorded music and late night refreshments from the premise may have in terms of noise impact on those in the surrounding area.

8. Representations received (Other Persons)

- 8.1 4 representations have been received from 'other persons', all in objection to the application. Objectors primarily have concerns in respect of the Prevention of Public Nuisance, principally the concerns relate to the nuisance that might be caused at neighbouring residential properties by allowing the requested variations, and in particular permitting the extension of timings for licensable activities and use of the external areas.
- 8.2 The applicant has indicated that they wish to continue with the application as detailed above. None of the representations have been withdrawn.

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 then the amendments/additions and conditions as detailed in paragraph 6.4, 6.5, 6.6, 6.7, 6.8, 6.9 and 6.10 of this report would need to be included in the licence.
- 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, 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.

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 have 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 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 Statement of Licensing Policy 2014 - 2019.
 Guidance issued under section 182 of the Licensing Act 2003 (March 2015).
 The Licensing Act 2003 (Hearings) Regulations 2005.
 Application form and copies of representations
 Existing Licence (18/03384/LPREM)

Cabinet Member (Portfolio Holder)

Cllr J Barrow

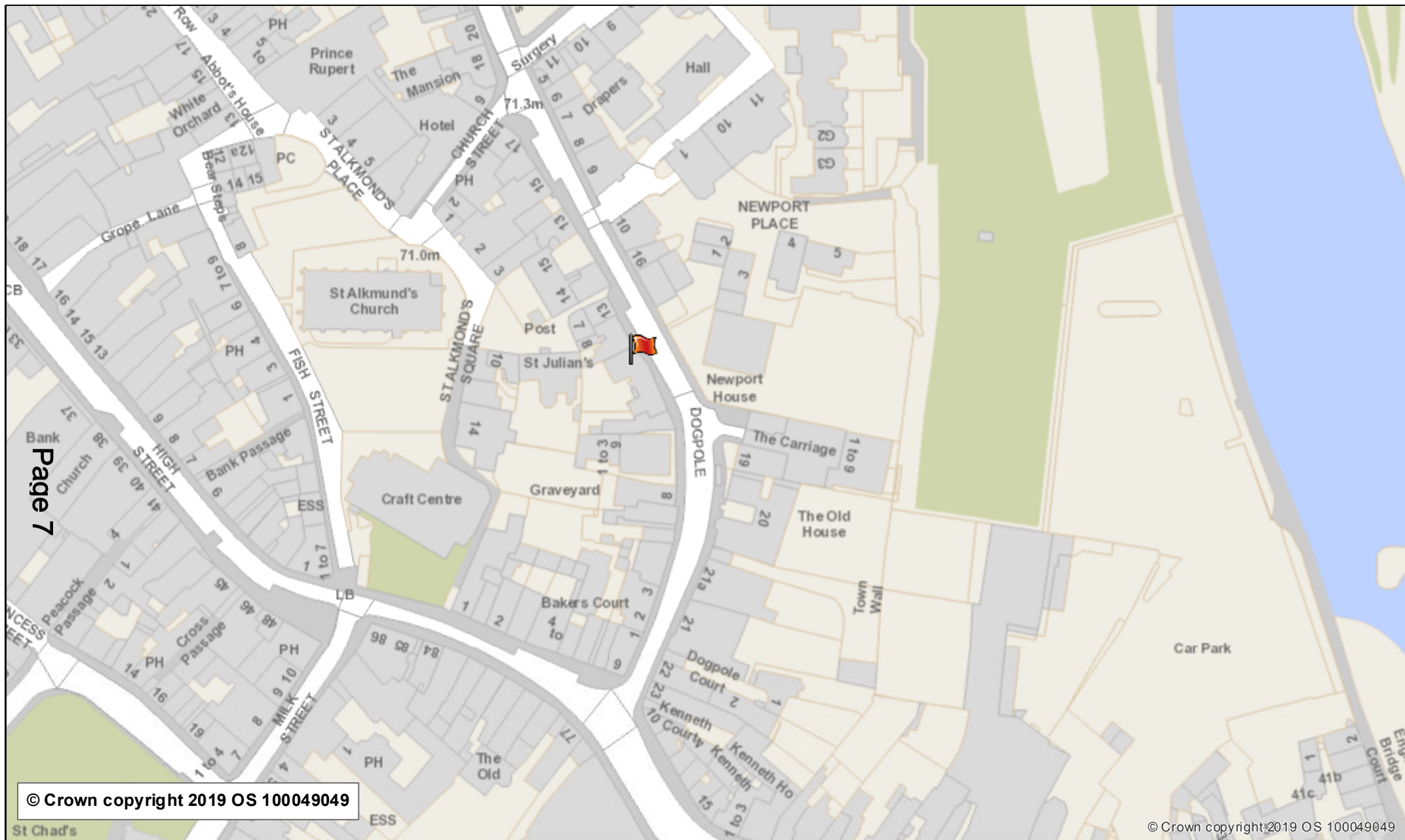
Local Member

Cllr N Green

Appendices

Appendix A – Location Plan

Appendix B – Current Licence (18/03384/LPREM)



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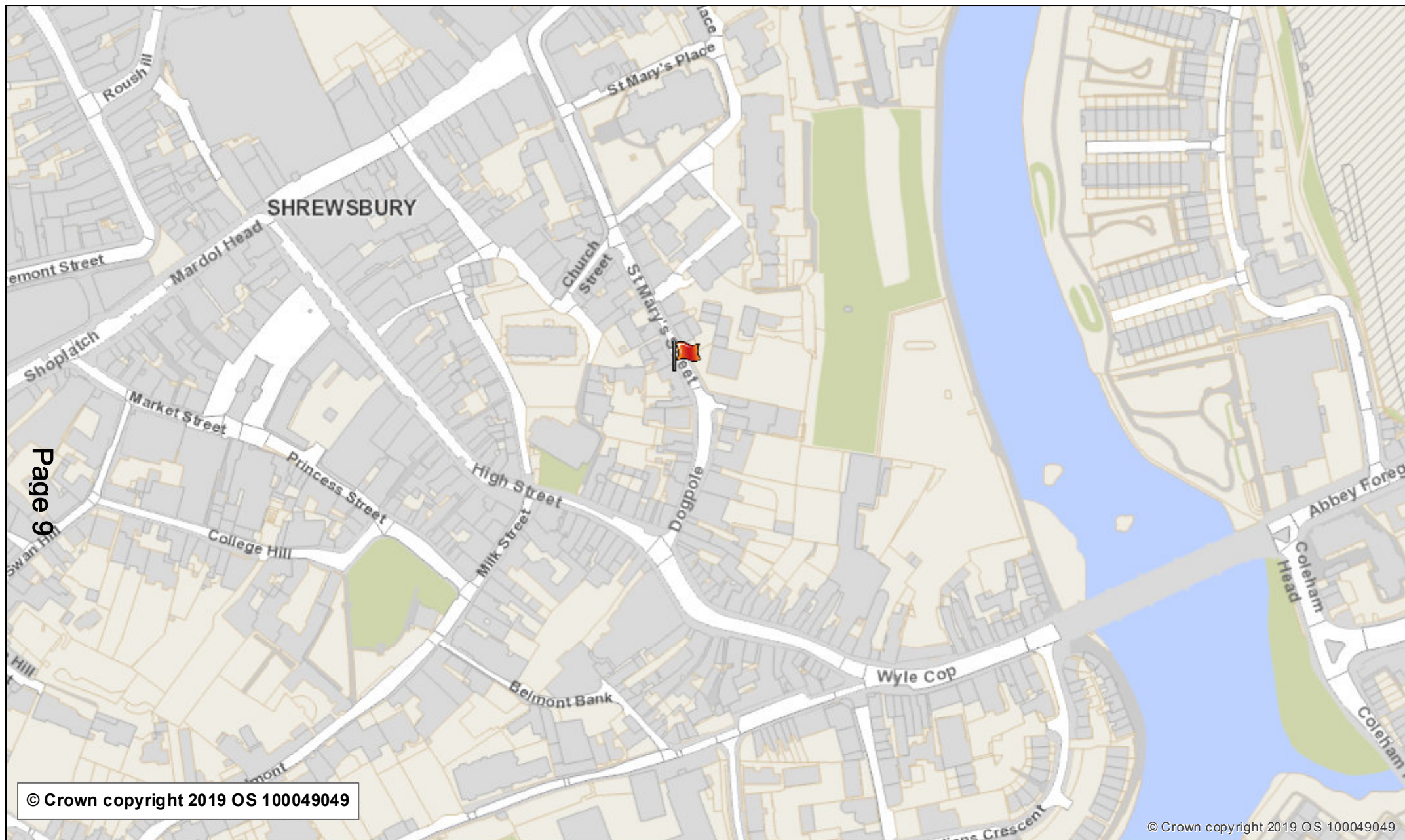
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Cromwells 1

Date: 03/01/2019



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This Licence is Issued by



SC/18/03384/LPREM

Premise Licence

Licensing Act 2003

Part 1 - Premises Details

Postal address of premises, or if none, ordnance survey map reference or description

Cromwell's Restaurant and Wine Bar
11 Dogpole, Shrewsbury, Shropshire, SY1 1EN

Where the licence is time limited, the dates

Not applicable

The opening hours of the premises

Monday to Sunday 07:00 - 00:00

Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities

Supply of Alcohol

Monday to Sunday 10:00 - 23:00

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

Alcohol is supplied for consumption on and off the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of premises licence holder

Mr Michael John Avery

The Stables, Asterley, Minsterley, Shrewsbury, SY5 0AR

Email address: mikeavery@cromwellsinn.com

Mobile Number: 07734 086 800

Home Phone: 01743 792 844

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

Mr Michael John Avery

The Stables, Asterley, Minsterley, Shrewsbury, SY5 0AR

Telephone Number: 07734 086 800

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: 22897

Issued by: Shropshire Council

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. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, 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—

(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 in a manner which carries a significant risk of undermining a licensing objective;

(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 in a manner which carries a significant risk of undermining a licensing objective;

(d) 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;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) 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 either—

(a) a holographic mark, or

(b) an ultraviolet feature.

4. The responsible person must 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.

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Mandatory Price Conditions

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1—

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula—

$$P=D+(D \times V)$$

where—

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence—

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4.—(1) Paragraph 2 applies where the permitted price given by sub-paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the operating schedule

General

1. Colour digital CCTV system operational at all times when licensable activities are taking place. Recordings shall be maintained for 90 days and made available to responsible authorities in a viewable format upon request thereof.

2. Staff shall be trained in the use of the CCTV.

Prevention of Crime & Disorder

1. The premises shall be equipped with an operational panic alarm.

2. An incident log shall be maintained and made available to responsible authorities upon request.

3. Off sales of alcohol shall be limited to closed bottles.

4. The premises shall be a member of the Shrewsbury Pubwatch scheme

Public Safety

1. The premises shall be equipped with a professionally installed and maintained fire alarm.
2. First aid kits and fire extinguishers shall be available

Prevention of Public Nuisance

1. The outside bar shall not be used in connection with the sale of alcohol.
2. Signage shall be clearly displayed in the outside area to the rear of the property, including the garden and terraces (the "garden"), requesting customers to be considerate of the needs of residential guests and local residents.
3. Staff shall be provided with training to help them effectively manage customers to ensure that residential guests and local residents are not disturbed by loud or poorly behaved customers.
4. Happy hour promotions of the sale of alcohol will not be operated after 21:00 Sunday to Thursday and after 22:00 Friday and Saturday.
5. The garden will be cleared of all persons (customers and staff) by no later than 21:30 Sunday to Thursday and 23:00 Friday and Saturday, with rear doors closed at the same time as the garden.
6. All lights in the garden extinguished at 21:30 Sunday to Thursday and 23:00 Friday and Saturday, save for those required for emergency lighting.
7. Signage shall be clearly displayed at the front door requesting customers to leave quietly and with due consideration for our residents and neighbours.
8. A wall mounted ashtray shall be fixed externally near to the front door.

Protection of Children From Harm

1. A 'Challenge 25' Policy will be implemented with appropriate signage displayed at points of sale
2. The only forms of identification that will be accepted are a passport, photo card driving licence, PASS photo card, military ID photo card and/or such other acceptable state issued national identification card
3. A challenge log will be maintained and made available to responsible authorities upon request
4. Training on the 'Challenge 25' procedures will be held for all persons supplying alcohol
5. Refresher training on 'Challenge 25' to be provided no less than annually. Training records retained and available at the premises to responsible authorities on request

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

Not applicable

Annex 4 – Plans

Plan reference and date: Dwg Nos PL-001 A + PL-000 Recd Aug 2018

Licensing Team, Public Protection, Shropshire Council,
Shirehall, Abbey Foregate, Shrewsbury, Shropshire SY2 6ND
www.shropshire.gov.uk 0345 678 9026

This Licence is Issued by



SC/18/03384/LPREM

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Licensing Act 2003

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Name, (registered) address of premises licence holder

Mr Michael John Avery

The Stables, Asterley, Minsterley, Shrewsbury, SY5 0AR

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

Mr Michael John Avery

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Page - 6 - of 6