

SHROPSHIRE COUNCIL

LICENSING ACT SUB-COMMITTEE

Minutes of the meeting held on 2 September 2015

**9.30 am - 12.27 pm in the Shrewsbury Room, Shirehall, Abbey Foregate,
Shrewsbury, Shropshire, SY2 6ND**

Responsible Officer: Shelley Davies

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Present

Councillors Peter Adams, Andrew Davies and Michael Wood

7 Election of Chairman

RESOLVED:

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

8 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.

9 Application for a Review of a Premises Licence - St Nicholas Bar and Cafe, Shrewsbury

Consideration was given to an application for a Review of a Premises Licence in respect of St Nicholas Bar and Café, 24 Castle Street, Shrewsbury, SY1 2BQ.

Ms. Louise Prince (Solicitor – Shropshire Council); Mr Ben Smith (Licence Holder); Mr Kevin Rippard (Licence Holder's Advisor); Mr M Key (Applicant – Environmental Health, Shropshire Council); Ms Joanne Chanter (Public Protection Officer – Professional – Shropshire Council); Mrs Kate Roberts (Public Protection Officer - Professional - Shropshire Council); Councillor Andrew Bannerman (Local Ward Member); Dr Alan Shrank (Interested Party); Mr Richard Harris (Interested Party); Mr David Waterhouse (Interested Party); Mr Dudley Clark (Interested Party); and PC Kevin Roberts (West Mercia Police) were present.

Mr M Key (Applicant – Environmental Health) addressed the Sub-Committee, stating that the application for a review of the Premises Licence was made on the grounds that operations at the premises undermined the Prevention of Public Nuisance Licensing Objective. He detailed the background to the application and advised that following continuing noise nuisance issues at the premises a noise abatement notice was served on 6th March 2015. Mr Key circulated a copy of draft conditions which he

considered would address the issues at the premises and confirmed that he had discussed these conditions with the Licence Holder prior to the meeting.

In response to questions from the Licence Holder, Interested Parties and Members of the Sub-Committee Mr M Key confirmed that:

- Planning conditions related to the building itself and Licensing conditions related to the Licensing activity at the Premises;
- It was not a legal requirement to consult Planning in relation to Licensing applications;
- He was not aware of any complaints received since the application for the review had been submitted;
- He had been in contact with the Licence Holder in relation to the draft conditions but had not previously been in a position to produce a list of draft conditions;
- The Licence Holder had been in breach of Licensing Objectives not necessarily the conditions of the Premises Licence;
- The courtyard area was not included in the licensed area of the premises but conditions could be attached to this area as the noise issues were a direct result of the licensed activity;
- The noise management plan requested as part of the draft conditions would manage the noise issues to ensure the music was an acceptable level; and
- The noise management plan would be agreed between the Licence Holder and Environmental Health.

The Public Protection Officer (Professional) addressed the Sub-Committee confirming that the application for the review had been accepted as a valid application and that representations had been received during the consultation period.

In response to a question from the Licence Holder Mrs K Roberts confirmed that the licensed area of the premises was shown on the premises licence plan and it was the Licence Holder's responsibility to ensure they were operating within the conditions of the premises licence.

PC K Roberts (West Mercia Police) addressed the Sub-Committee confirming that representations had been submitted by West Mercia Police. He added that he had visited the premises on a number of occasions in relation to noise nuisance issues but there were no issues at the premises in relation to crime and disorder.

In response to questions from the Licence Holder, Interested Parties and Members of the Sub-Committee PC K Roberts confirmed that:

- The effect of music on an individual was subjective and if an individual's hearing had shut down on leaving an entertainment venue it did not necessarily indicate that the music was too loud;
- He was not aware of reports of customers of St Nicholas Café urinating outside the premises; and

- The Council were responsible for the closure of a premises due to noise nuisance issues, not the Police.

Councillor Andrew Bannerman addressed the Sub-Committee on behalf of Dr and Mrs King (Interested Parties) confirming that he supported the draft conditions circulated by Mr Key. He suggested the premises should operate more like a restaurant closing at 11:00 p.m. due to the proximity of residential properties.

Mr D Waterhouse (Interested Party) addressed the Sub-Committee explaining that he supported the review of the premises licence and stated that the premises had been operating as a nightclub rather than a café/bar.

Mr R Harris (Interested Party) addressed the Sub-Committee explaining that he was in support of the review application and questioned why the premises had been licensed in the first place due to the proximity of residential properties.

Dr A Shrank (Interested Party) addressed the Sub-Committee explaining that he was in support of the review application and stated that as the premises were surrounded by residential properties and it was more suited for use as a restaurant where alcohol was only served with a meal.

Mr D Clark (Interested Party) addressed the Sub-Committee explaining that he was in support of the review application and stated that the current use of the premises was intolerable for residents and was not being properly run.

In response to a question from a Member of the Sub-Committee Dr A Shrank confirmed that he considered any alcohol should only be served with a substantial meal.

The meeting was adjourned at 10:47 a.m. to allow time for those present to read the list of draft conditions circulated by Mr M Key.

The meeting was reconvened at 10:51 a.m.

The Interested Parties present confirmed that the draft conditions were acceptable subject to the opportunity to comment on the noise management plan before it was finalised.

Mr B Smith (Licence Holder) addressed the Sub-Committee in relation to the review application. He explained that he was willing to change the direction of the business to alleviate the noise issues experienced by local residents by including 5 hotel rooms, ceasing live music at 11:00 p.m. and utilising the top floor as a steak and lobster restaurant.

In response to questions from Environmental Health, Interested Parties and Members of the Sub-Committee Mr B Smith confirmed that:

- He was acceptable to the draft conditions circulated by Mr Key apart from the condition to close the premises at 11:00 p.m., which he considered would be detrimental to the business;

- He intended to move the café to the ground floor;
- The business was thriving and contributing to the local economy;
- The issue of noise could be mitigated by measures such as not allowing customers to go outside to smoke after 11:00 p.m., moving the access/egress and including a last entry time;
- He was willing to look at having a designated smoking area away from residential properties;
- He was not aware that the ground floor was not included in the licensable area;
- The proposed café on the ground floor would close at 6:00 p.m. and weddings would be held in the upstairs restaurant;
- He had changed the type of live music to acoustic music which was more suitable to the building; and
- He had already used 6 Temporary Event Notices (TENS) this year and would be worried about Christmas time if he had to rely on TENS to hold weddings and events at the premises.

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 12:00 p.m. and reconvened at 12:25 p.m. to announce their decision.

RESOLVED:

That the Premises Licence for St Nicholas Café, 24 Castle Street, Shrewsbury be modified as detailed below:

The Opening Hours of the premises and the Sale of Alcohol be amended as follows:

Opening hours

Mon-Thu 10.00 – 00.00

Fri-Sat 10.00 – 00.00

Sun 10.00 - 23:00

Sale of Alcohol

Mon-Thu 10.00 – 23.30

Fri-Sat 10.00 – 23.30

Sun 10.00 - 23:00

That the licence be amended to restrict the hours for live music and recorded music (s177A Licensing Act 2003 does not apply) as follows:

Live Music

Mon-Sat 10.00 – 23.00

Sun 11.00 – 16.00

Recorded Music

Mon-Sat 10.00 – 23.00

Sun 11.00 – 23.00

That an additional condition to require a designated smoking area (location to be agreed with Environmental Health) and the following conditions (recommended by Environmental Health) be added to the Premises Licence:

1. A noise management plan shall be submitted in writing to the Licensing Authority by 2 October 2015 for the written approval of the Licensing Authority. It shall detail the controls to be adopted to manage the impact of noise on nearby premises and 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. (s177A Licensing Act 2003 does not apply).

2. The Live Music Act 2012 shall not apply to these premises. Therefore the controls and restrictions relating to regulated entertainment at the premises shall apply during licenced hours.
3. No regulated entertainment shall occur at the premises until the Noise Management Plan required in accordance with condition 1 has been approved in writing by the Licensing Authority. (s177A Licensing Act 2003 does not apply).
4. There shall be the provision of SIA licensed door supervisors after 21.00 to manage the main entrance to the premises and ensure that customers leaving and entering the premises and also those smoking externally do not cause nuisance or interfere with the amenity of nearby residential premises.
5. A designated smoking area shall be provided away from the main entrance to the premises, such position to be agreed with the Licensing Authority. The proposed location of the designated smoking area shall be submitted in writing to the Licensing Authority by 2 October 2015.

The Sub-Committee requested that the Interested Parties be given the opportunity to comment on the noise management plan detailed above.

Reasons

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 noted the concerns from the neighbours regarding noise nuisance and disturbance they experienced from the premises, in particular from music and customers leaving the premises, however, having regard to the representations made by the Licence Holder and the recommendations made by the Environmental Health officer, it was considered that the revised conditions were appropriate and proportionate in order to promote the licensing objective of prevention of public nuisance.

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.

Signed (Chairman)

Date: