



Committee and Date

Licensing Act Sub-Committee

Tuesday 17th April at

Item

3

Public

LICENSING ACT 2003

APPLICATION FOR A REVIEW OF A PREMISES LICENCE

Responsible Officer Jessica Moores, Public Protection Officer (Professional)

e-mail: licensing@shropshire.gov.uk

Tel: 0345 6789026

1. Summary

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

Premises: Riverside Blues Café and Music Rooms, 45 Cartway, Bridgnorth, Shropshire, WV16 4BG

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 review of a premises licence.

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

After considering all the relevant issues the licensing authority may:

- 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 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, 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 Riverside Blues Café and Music Rooms, 45 Cartway, Bridgnorth, Shropshire, WV16 4BG.

6. Background

- 6.1 Shropshire Council Public Protection with responsibility for Environmental Health (the "Applicant") has made an application for a review of the Premises Licence at the Riverside Blues Café and Music Rooms on the grounds that operations at the premises undermine the Prevention of Public Nuisance objective. The application is supported by evidence from complaints received regarding noise from the premises at nearby residential dwellings, diary

sheets kept by neighbouring residents and monitoring carried out by Environmental Health and Out of Hours Officers.

- 6.2 The Applicant is a Responsible Authority under the Licensing Act 2003 with particular responsibility for the Prevention of Public Nuisance objective. They receive and respond to complaints regarding noise from licensed premises.
- 6.3 The current Premises Licence was granted on the 12th July 2017. The premises licence holder and Designated Premises Supervisor are Mr Ashley Edwards.
- 6.4 The premises licence application described the premises and its purpose as a *'small blues music themed café with a riverside terrace that will be serving American style food and drinks that could hold no more than 100 people between the inside and outside terrace'*. The application requested opening hours of between 10:00 and 23:00 with the supply of alcohol between the same hours. The application did not mention or request live or recorded music as licensable activities because they were planned to take place between the hours of 08:00 and 23:00 to an audience of less than 500 people, and therefore no licence was required.
- 6.5 No 'in time' representations were received to the application. One representation was received from an immediate neighbour once the consultation period had ended, however this could not be considered. The application was therefore granted as requested.
- 6.6 The premises comprises an internal area of approximately 12x6 metres (which includes a 4x2 metre kitchen and a bar area). The internal seating area is therefore approximately 8x5 metres. There is a covered terrace immediately outside the rear door, which is approximately 3x4 metres, and a further external terrace area below this which is approximately 10x6 metres.
- 6.7 Cartway, the street in which the premises is located, is a narrow two way street with mixed residential, retail and licensed premises use. There are two other licensed premises in the same street. The premises main frontage is on to Cartway, the rear terrace faces the river. Prior to its current use the premises was a tea room, licensed to sell alcohol from January 2006 until December 2015, and then a residential dwelling until it was bought by the current occupant.
- 6.8 When viewed face on from Cartway, the premises shares a party wall to the left with number 46 Cartway. To the right it is separated from number 15 Bridge Street (the rear of which is nearest to the premises and has residential use, and the front of which is Bamboo, a licensed premises) by its own stair case internally and an external alleyway which separates the properties at ground floor level.
- 6.9 The Applicant received the first complaint about noise from the external area of the premises two months after the licence was granted, on the 12th September 2017. This complaint was from an immediate neighbour. Between September and October 2017, a total of four complaints had been received by

Environmental Health from individual nearby residential dwellings regarding the noise from live music in the external area, in particular on Friday and Saturday nights.

- 6.10 Monitoring of the premises has been carried out in person by Out of Hours Officers and Environmental Health Officers on four occasions between October 2017 and February 2018. On each occasion, the monitoring officers felt that a public nuisance was being caused by either the external or internal music being played at the time. On one occasion in October 2017 a local resident contacted the Out of Hours Team to report a disturbance, but the officers were engaged elsewhere and couldn't attend to witness. Their notes show that the complainant stated they were inside their premises at the time of the call and the officer remarks that the music was clearly audible over the phone.
- 6.11 Having carried out monitoring of the premises from the surrounding area and within the immediately neighbouring property, the Applicant was of the opinion that a Statutory Noise Nuisance was being caused and a Statutory Nuisance Notice was served on the business under s80 of the Environmental Protection Act 1990 in December 2017. This notice was not appealed by the licence holder, and the notice stands.
- 6.12 A Statutory Noise Nuisance can be defined as a matter which is unreasonable and causes substantial interference in the use and enjoyment of a person's property. It must be serious and persistent in nature in order to qualify as a Statutory Nuisance.
- 6.13 Public nuisance has a lower qualifying threshold than Statutory Nuisance. It is however inconsistently defined in law; the Licensing Act 2003 gives it a broad definition and the s182 Guidance issued under the Act points to the broad common law meaning of Public Nuisance, which may include the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises.
- 6.14 The licence holder has taken steps to address the Statutory and Public Nuisances. Live music externally has been stopped, and complainants report an improvement following this. The speaker on the top terrace has been removed, so no music is now piped outside. Regular live music has been stopped outside and moved to inside only. The licence holder states they have no intention to reinstate regular live music outside.
- 6.15 These measures have not stopped complaints from the immediately neighbouring property regarding live music being played indoors causing a nuisance within their property. The monitoring officers' comments when inside the complainant's property during live music taking place indoors were that, in their opinion, the acoustic music being played in the premises was audible to the extent that music and lyrics were clearly audible, and on one occasion the fabric of the building could be felt to vibrate when placing a hand on the party wall.

- 6.16 It is the Applicants assertion that, notwithstanding the adequate management of the premises and good intentions and efforts of the licence holder, the premises itself is not suitable for the playing of live music, either indoors or outdoors, without a Public Nuisance being caused. The applicant has therefore suggested a number of measures they feel it appropriate to be applied to the premises licence in order to address this, these are outlined in their application.
- 6.17 Four representations have been received in support of the application, they are all from residents of the area surrounding the premises who have been affected by noise from the premises. Their primary concern is the noise created by both live music and people in the outside terrace area, particularly on Friday and Saturday nights in the summertime. They acknowledge the improvement since live music outside has been stopped, but express concern that this will continue when the weather improves again. One of the representations specifically raises issues with noise inside their premises when live music takes place indoors.
- 6.18 Two representations have been received against the application, they are from one resident of the area surrounding the premises, and the licence holder. The licence holder has also submitted details of an online petition he organised against the review application, which at the time it was submitted had been signed by 1,029 people. The petition shows only a list of names and postcodes, so it is not possible to determine the exact proximity of the signatories' residence to the premises, or their personal experience in relation to the premises. The petition was submitted alongside 20 letters of support for the licence holder.

Ten of the letters are from individuals who identify themselves as residing outside Bridgnorth, eight of whom also live outside Shropshire. Nine of the letters are from people who identify themselves as customers, four are from staff employed at the premises and two are from family/family friends of the licence holder.

Eight of the letters are from individuals who identify themselves as residents of Bridgnorth, three of whom have addresses in the immediate area surrounding the premises.

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.

8.5 For any restriction or condition to apply to live or recorded music between the hours of 08:00 and 23:00 for up to 500 persons (on the premises), a statement that Section 177A of the Licensing Act 2003 does not apply to the condition/restriction must be included.

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 (March 2015).
The Licensing Act 2003 (Hearings) Regulations 2005.
Application form and associated papers.

Cabinet Member (Portfolio Holder)

Cllr R Macey

Local Member

Cllrs C Lea & W Parr

Appendices

Appendix A – Location Plan

Appendix B – Current Licence