

SHROPSHIRE COUNCIL

LICENSING ACT SUB-COMMITTEE

Minutes of the meeting held on 17 April 2018
10.00 am - 12.13 pm in the Shrewsbury Room, Shirehall, Abbey Foregate,
Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Shelley Davies
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Present

Councillors Roy Aldcroft, Paul Milner and Keith Roberts

33 Election of Chairman

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

34 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.

35 Application for a Review of a Premises Licence - Riverside Blues Café & Music Rooms, 45 Cartway, Bridgnorth, WV16 4BG.

Consideration was given to an application for a Review of a Premises Licence in respect of Riverside Blues Café & Music Rooms, 45 Cartway, Bridgnorth, WV16 4BG.

Ms. Louise Prince (Solicitor – Shropshire Council); Mr. Ashley Edwards (Licence Holder); Mrs. Lynne Edwards (Investor in business and mother of the Licence Holder); Mr. Matthew Clark (Applicant – Environmental Health, Shropshire Council); Ms. Jessica Moores (Public Protection Officer – Professional (Licensing) - Shropshire Council); Mr. Robert Bowland (Public Protection Officer – Specialist (Out of Hours) – Shropshire Council); Ms. Deborah Hall (Public Protection Officer – Specialist (Out of Hours) – Shropshire Council) Kirsty Bell - Observing (Public Protection Team - Shropshire Council); Mr. John Sheldon (Objector); and Mrs. Jan Sheldon (Objector) were present.

Mr Matthew Clark (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 he had discussed the issue with the Licence Holder who took steps to address the issue but despite these measures there was still an impact on the immediately neighbouring property.

An email from West Mercia Police was circulated to the Committee with agreement of Chairman and Licence Holder detailing a visit to the premises by a Police Officer and Out of Hours Public Protection Officers on 7th April 2018. Mr Clark stated that it was clear from the information in the email that a Public nuisance was still occurring and he suggested conditions to mitigate this. Mr Clark added that the management of the premises was not an issue and the Licence Holder had done what they could to mitigate the noise issues.

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 relevant representations had been received during the consultation period.

In response to a question from the Licence Holder, the Public Protection Officer (Professional) confirmed that the location of the representation in support of the Premises was included in the report. A photograph to clarify the location of the premises was shown to the Committee.

Mr and Mrs Sheldon (Objectors) addressed the Sub-Committee. They considered that the business was a good concept but was in the wrong location due to the fabric of the building. It was explained that premises was a café when they bought their property. The current premises impacts greatly on their life and it was noted that they now have to wear headphones when watching television or have volume turned up very loud, they cannot go to bed early or have people around to their house at the weekend.

In response to questions from the Licence Holder, the Solicitor and Members of the Sub-Committee, Mr and Mrs Sheldon confirmed that:

- That the New Year's Eve party referred to in the diary was at the premises not their house;
- The noise they referred to was generated from the outside area at premises and not another premises as they could see the area from their property;
- They experienced noise problems every Friday and Saturday; and
- They had approached the Licence Holder in relation to the issue but this had not made any difference to the noise problems.

Mrs Lynne Edwards addressed the Sub-Committee. She explained that the review application had had a detrimental impact on the business and stressed that the Licence Holder had made a lot of changes at the premises following the complaints received. An information pack was passed to Members of the Sub-Committee which included additional comments regarding the business. The Chairman agreed that this would be looked by Members when deliberating.

In response to questions from the Public Protection Officer (Professional), Mr Clark and Members of the Sub-Committee, Mr Edwards confirmed:

- He felt it would be possible to address the noise issues with sound proofing measures;
- He considered it was reasonable to hear some noise in a town centre property;
- He considered the impact was being exaggerated by the objectors;
- He had made a number of changes but never had any feedback from the objectors;
- He agreed music being played outdoors was causing a noise nuisance;
- The sound proofing measures incorporated when the building was refurbished;
- The premises held approximately 28 people and it was a possibility that amplifiers could be removed due to the small space; and
- He had sent a letter to all neighbouring properties before they started the business setting out what he wanted to do.

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 11:32 a.m. and reconvened at 12:09 p.m. to announce their decision.

RESOLVED:

That the Premises Licence for Riverside Blues Café and Music Rooms, 45 Cartway, Bridgnorth, WV16 4BG be modified as detailed below:

The Live Music Act 2012 provisions be dis-applied to allow conditions to be added to the premises licence to regulate live and recorded music between 08:00 – 23:00 hours; and

The following conditions be added to the premises licence:

- No live music shall be played in external areas of the premises at any time;
- No live music shall be carried out in internal areas at any time;
- The external area shall not be used after 21:00 save for patrons who wish to smoke however after 21:00 no drinks in open containers shall be permitted in external areas; and
- The Hours for the Sale of Alcohol be amended to Mon - Sun 10.00 – 22.30.

Reasons

Having heard the evidence from the objectors that were present at the hearing and the written representations of those objectors who were not present, the Sub-Committee were satisfied that noise nuisance coming from the premises was “disproportionate and unreasonable”. Further, that “the living and working amenity and environment of other persons living or working in the area around the premises” was being compromised. In particular, they heard evidence from the adjoining neighbour that they regularly experienced disturbance that significantly affected the use and enjoyment of their home. Of significance was the evidence that since the premises opened, they no longer felt able to have visitors when live music was likely

to take place. This evidence was supported by written representations made by other people living in the area.

The Sub-Committee considered the investigation and evidence provided by the Environmental Health Officer to be thorough and compelling and appeared to be carried out in a considered and fair manner. The Sub-Committee did not accept the assertion by the Premises Licence Holder that the matter was not one of public nuisance and was simply a neighbour dispute. They were persuaded by the arguments put forward by the Environmental Health Officer and the Public Protection Officer - Licensing and considered the matters in the application entirely relevant to the Licensing Act 2003 and suitable to be dealt with through the review process. The Sub-Committee acknowledged the efforts made by the Premises Licence Holder to date in attempting to mitigate the noise nuisance but did not consider that they had been successful.

The Sub-Committee considered all the options available to them when reaching their decision. They concluded from all the evidence heard that no level of management changes or amendments to the licence conditions could be applied to mitigate the nuisance due to the structure and location of the building. Further to this, the Sub-Committee expressed concern at the Premises Licence Holders admission during the hearing that they felt it reasonable for the adjoining neighbours to expect to experience a level of noise disturbance from their premises. This was consolidated by the disclosure of the witness called by Premises Licence Holder, which she had visited the adjoining property to experience for herself the level of noise coming from the premises and admitted that music could clearly be heard through the wall.

The Sub-Committee were satisfied that a noise nuisance was carrying on at the premises and the only way to prevent a continuation of this would be to disapply the Live Music Act 2012 and prohibit the playing of live music on the premises.

During the hearing the Premises Licence Holder, in response to a question, accepted that the playing of live music in the outside area was not feasible without causing a public nuisance and that he had already stopped this activity. The Sub-Committee further decided that the same applied to live music being played inside the premises.

Based on the evidence provided by the Environmental Health Officer and one of the objectors that people noise from patrons using the external area in the evening created a further nuisance, the Sub-Committee decided that the external area shall not be used after 21:00 save for patrons who wish to smoke however after 21:00 no drinks in open containers shall be permitted in external areas. Consideration was given by the Sub-Committee to completely prohibit the use of the external area after 21:00 however they were mindful that by doing so public nuisance from smokers may be relocated to the front of the premises where it may affect a larger number of people.

The Sub-Committee considered that it would be beneficial for the supply of alcohol to stop half an hour prior to the closing time of the premises to allow dispersal of patrons and reduce the likelihood of public nuisance being created by people leaving the premises. They therefore reduced the hours for the supply of alcohol from 10:00 – 23:00 Monday to Sunday to 10:00 – 22:30 Monday to Sunday.

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 parties were advised that the decision would be confirmed in writing within 7 days of the date of the hearing and that every party had the right of appeal against

Signed (Chairman)

Date: