

## LICENSING ACT 2003

### APPLICATION FOR A VARIATION OF A PREMISES LICENCE

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#### 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)