

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:

- Jaspers Bar & Bistro, 15 Victoria Road, Shifnal, Shropshire, TF11 8AF

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 Jaspers Bar & Bistro, 15 Victoria Road, Shifnal, Shropshire, TF11 8AF.

6. Background

- 6.1 Mr Aled Rees has made an application for a variation of the premises licence. Mr Rees is the premises licence holder and the Designated Premises Supervisor of the premises.
- 6.2 Jaspers Bar & Bistro has had its current premises licence since October 2005. The premises is in a mixed use area, surrounded by residential and commercial premises. At the rear of the premises there is a large car which park backs onto a viaduct on the other side of which are residential properties. Jaspers is situated on Victoria Road, one of the main streets in Shifnal.

6.3 The existing Premises Licence permits the following:

Opening hours

No opening hours

Supply of Alcohol (on and off premises)

Monday to Sunday 11:00 - 23:00

Non Standard Timings

Good Friday noon – 20:30

Christmas Day noon – 15:00 and 19:00 – 22:30

Playing of Recorded Music (Indoors)

Monday to Saturday 11:00 – 23:00

Sunday noon – 20:30

Late Night Refreshment (Indoors)

Monday to Saturday 11:00 – 23:00

6.4 The variation application seeks to amend the following:

Opening hours

Monday to Sunday 12:00 – 01:00

Non Standard Timings

New Year's Eve to 03:30.

Supply of Alcohol (on and off premises)

Monday to Sunday 12:00 – 00:00

Non Standard Timings

New Year's Eve to 03:00.

Live Music (Indoors)

Monday to Sunday 12:00 – 00:00

Non Standard Timings

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

Recorded Music (Indoors)

Monday to Sunday 12:00 – 00:00

Non Standard Timings

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

Late Night Refreshment (Indoors)

Monday to Sunday 23:00 – 00:00

Non Standard Timings

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

- 6.5 The applicant seeks the variation primarily in order to address the issue of noise emanating from the balcony and ground floor external areas of the premises, which have been the subject of a number of noise complaints from nearby residential premises. These complaints have resulted in the involvement of the Environmental Protection Team, who have provided advice with regard to this application and the mitigation of noise nuisance from the premises.

1 - Balcony area to close at 23:00 hours seven days a week and the area is to be vacated by staff by 23:15.

2 - Downstairs outside rear area to be closed off at midnight.

3 - No amplified music or amplified talking to outside area save in an emergency.

4 - Rear windows and doors to remain closed from 23:00 save for entry/exit.

- 6.7 - The variation application also seeks to adopt a Challenge 25 Policy under the Protection of Children from Harm.

7. Representations received (Responsible Authorities)

- 7.1 One representation has been received from Environmental Health. The representation relates to Prevention of Public Nuisance and the impact of the rear balcony and noise from people in the external ground floor area impacting on residents within their homes.

8. Representations received (Other Persons)

- 8.1 Eight representations have been received from 'other persons'. Four of these are in objection to the application and primarily have concerns in respect of the Prevention of Public Nuisance. Principally the concerns relate to the nuisance that is currently occurring and may continue if the requested variations are permitted, particularly those relating to the external areas of the premises. The other four representations again primarily concern the Prevention of Public Nuisance but praise the public house and the licence holder for the facilities provided to the community.

- 8.2 Seven further representations were also received in support of the application. One of these representations was submitted after the end of the consultation period and could not therefore be considered. The other six were anonymous and provided no name, address or details in relation to the application and the effect the grant of the variation may have on the four licensing objectives. These representations were not accepted as relevant as it was not possible for either the Licensing Authority or the applicant to assess their validity in terms of proximity to the premises or relevance in terms of the person making the representation. As these six representations were anonymous it has not

been possible to inform the people making them that they were not accepted as relevant, or of the date of the hearing.

- 8.2 None of the representations have been withdrawn the applicant has indicated that they wish to continue with the application as submitted.

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, 6.6 and 6.7 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 (19775) and plan

Cabinet Member (Portfolio Holder)

Cllr J Barrow

Local Member

Cllr E Bird

Appendices

Appendix A – Existing Licence

Appendix B – Location Plan (Jaspers 1 and 2)