



Licensing Sub-Committee
Friday 12th February 2021
Online via Teams Live

Item

Public

LICENSING ACT 2003

APPLICATION FOR A PREMISES LICENCE

Responsible Officer Ross O'Neil, Public Protection Officer (Specialist)
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1. Summary

To consider an application for a new Premises Licence.

Premises: Rumbling Tummies Café and Bistro, 37 Shropshire Street, Market Drayton, TF9 3DA

Shropshire Council being the authorised licensing authority for the above premises has received an application for a new premises licence.

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 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 Licensing Policy 2019 - 2024.

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, 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 new Premises Licence for Rumbling Tummies Café and Bistro, 37 Shropshire Street, Market Drayton, TF9 3DA. (A copy of the location map and location photographs can be found at **Appendix A and B**).

6. Background

- 6.1 Heidi O'Neill has made an application for a new Premises Licence. The premises are currently operating as a small café bistro, it is set within part of a terrace with residential properties either side and a flat above. The Premises is located on Shropshire Street within the town of Market Drayton, Shropshire. (A copy of the application and plan can be found at **Appendix C and D**).

A site visit was conducted during the consultation period by the Public Protection Officer as it is expected that the applicant works with the Council in an open and cooperative way and to disclose anything which the Council

would reasonable expect to know (27.1 of Shropshire Council's Licensing Policy 2019 – 2024).

The visit allows the applicant to demonstrate their understanding of each of the licensing objectives, which provides the Public Protection Officer with a better understanding of the application and plan to assist liaising with them, responsible authorities or other persons if necessary.

6.2 The requested licensable activities and opening hours are:

Supply of Alcohol (Both - On and Off premises)

Monday to Sunday - 09:00 to 00:00

To include non- standard timings for Christmas Eve, Christmas Day, New Year's Eve, New Year's Day, Easter Sunday, Valentine's Day and all recognised national bank holidays 09:00 – 01:00 the following day.

Late night refreshment (Both - Indoors and outdoors)

Monday and Sunday – 23:00 to 00:00

To include non- standard timings for Christmas Eve, Christmas Day, New Year's Eve, New Year's Day, Easter Sunday, Valentine's Day and all recognised national bank holidays 23:00 – 01:00 the following day.

Opening Hours

Monday to Sunday - 09:00 to 00:00

To include non- standard timings for Christmas Eve, Christmas Day, New Year's Eve, New Year's Day, Easter Sunday, Valentine's Day and all recognised national bank holidays 09:00 – 01:30 the following day.

6.3 For a new application, applicants are required to submit an operating schedule detailing how they intend to promote the four licensing objectives, these are the prevention of crime and disorder, promotion of public safety, the prevention of public nuisance and the protection of children from harm. The applicant has indicated that the following steps would be taken.

6.3.1 Prevention of Crime and Disorder

1] A camera CCTV system is in place covering all public areas of the premises.

2] The CCTV system shall continuously record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings will be stored for a minimum of 31 days and can be accessed and downloaded immediately when requested by the police or other authorised officer.

3] There will always be at least one person present whilst the premises is open to the public who is able to operate and download images from the CCTV.

4] An incident log shall be kept at the premises, and made available on request to the police or an authorised officer, which will record the following:

- All crimes reported to the venue
- Any complaints received
- Any incidents of disorder
- Any faults in the CCTV system
- Any visit by a relevant authority or emergency service
- All ejections of patrons
- All seizures of drugs or offensive weapons
- Any refusal of the sale of alcohol

6.3.2 Public Safety

1] The Premises will be maintained in a safe manner at all times.

2] All exits will be kept unobstructed, easy to open and clearly signed.

6.3.3 Prevention of Public Nuisance

1] All refuse will be disposed of in an appropriate manner. Staff will be instructed to maintain all external areas in a clean and presentable manner at all times.

2] Notices will be displayed asking patrons to leave the premises quietly and to have respect for local residents.

3] Substantial food and non- intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises.

4] No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

5] No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any person living or carrying on business in the area where the premises are situated.

6] No deliveries to the premises shall take place between 23:00 and 07:00 on the following day.

7] No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 hours and 07:00 hours on the following day.

6.3.4 Protection of Children from Harm

1] A challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of ID are recognized photographic

identification cards, such as a driving licence, passport or proof of age card with the PASS hologram.

2] The premises will operate a “No ID, No Sale” policy at all times for persons who look under 25. Staff will be trained in the understanding of this policy and training records maintained for inspection if requested by the police or any other responsible authority.

3] A record shall be kept detailing all refused sale of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorized officer of the Council at all times whilst the premises is open.

7. Representations received (Responsible Authorities)

- 7.1 Two authorities made objections to the application.
- 7.2 Environmental Health have objected, and this relates to Prevention of Public Nuisance and the impact of noise and odour on nearby residential properties. (A copy of the Environmental Health representation can be found at **Appendix E**. Additional supporting information has since been submitted, after the consultation period, for consideration which can be found at **Appendix N**).
- 7.3 Trading Standards reviewed the proposed Challenge 25 policy, relating to Protection of Children from Harm and the officer believes that the conditions need to be more robust and has requested the three proposed conditions on the application be replaced with their six. (A copy of the Trading Standards representation can be found at **Appendix F**).
- 7.4 Three authorities made comments on the application.
- 7.5 Planning stated “In commenting on the above mentioned licensing application as a responsible authority I can advise that planning do not object to a licence for the sale of alcohol being issues.

The premises most recent implemented planning permission appears to be for a1 retail use, it appears that the current café use on site originated as a sandwich shop selling cold snacks and reheated food in around 2014, which would fall under the a1 retail category. At some point in the premises history the business model has altered such that the use would fall in what was known as a3 café/ restaurants use. Our information indicates this was around 2016. As such there would have been an identifiable breach of planning control at this time.

Subsequently however, significant changes to the use class order have been adapted in September 2020, such that Class E now overrides the previous A1 and A3 use and the premises can change to a café without express planning permission.

As such planning would uphold no objection to the continued use as a café/restaurant, and it would not be expedient for any formal action to be taken in this regard.

Resultantly, no objection to the ongoing use (which planning have no record of complaints being received in relation to, prior to the submission of this alcohol licence) is identified by the planning team and no objection to the issue of an alcohol licence”.

- 7.6 West Mercia Police stated “Applicant has been visited by SNT. I am also informed that an officer from Environmental Health, Shropshire Council has visited and discussed a drugs policy which will now be incorporated into the licence. I do not now intend to duplicate the work that has already been done in relation to this. CCTV condition outlined on application and should be reflected in the licence with the wording “colour CCTV system of evidential quality” as this wording is not included. Challenge 25 covered in application and to be reflected in the licence. I am not aware of any previous crime and disorder at this premises or any other reports. There is nothing recorded that it has previously caused demand to West Mercia Police. No objections”.
- 7.7 Health and Safety stated “I wish to make the following comments: There is only 1 toilet which is only suitable for up to 25 seats. The applicant is also advised to contact Building Control to ensure their provisions are met including wheelchair access. No other comments”.
- 7.8 There are two outstanding objections from Responsible Authorities – Environmental Health and Trading Standards.

8. Representations received (Other Persons)

- 8.1 Six objections have been received from other persons, who have concerns in respect of Public Nuisance. The representation map displays the location of representations in relation to the premises. (A copy of the ‘other persons’ location map can be found at **Appendix G**).
- 8.2 Principally the concerns relate to the nuisance that could potential be caused from the premises and also the nuisance currently been caused by cooking odours. (Representations can be found at **Appendix H – M**).
- 8.3 All aspects of representations have been accepted, for consideration, giving the benefit of the doubt to the person/s making the representation to allow them to amplify or clarify at the hearing.
- 8.4 The Public Protection Officer encouraged and supported all parties to attempt to negotiate and mediate during the consultation period in order to remove the need for a hearing (28.18 of Shropshire Council’s Licensing Policy 2019 – 2024). The representations have not been withdrawn and the applicant has indicated 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 licence
- To grant the licence with conditions
- To grant the licence but restrict the licensable activities
- To grant the licence with restricted times

9.2 If the application is to be granted in line with the submitted operating schedule then conditions detailed in paragraph 6.3 of this report would need to be included in the licence, if deemed necessary and appropriate, with an appropriate decision.

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 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 need 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 licence 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 Licensing Policy 2019 – 2024

<https://www.shropshire.gov.uk/media/12345/statement-of-licensing-policy-2019-to-2024.pdf>

Guidance issued under section 182 of the Licensing Act 2003 (April 2018)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

The Licensing Act 2003 (Hearings) Regulations 2005

<https://www.legislation.gov.uk/ukxi/2005/44/contents/made>

The Licensing Act 2003 (Hearings) (Amendment) Regulations 2005

<https://www.legislation.gov.uk/ukxi/2005/78/made>

Application form (and plan)

Copies of representations received and additional supporting information

Cabinet Member (Portfolio Holder)

Cllr G Butler

Local Member/s

Cllr Roger Hughes and David Minnery

Appendices

Appendix A – Location map

Appendix B – Location photographs

Appendix C – Application

Appendix D – Premises plan

Appendix E – Representation – Environmental Health

Appendix F – Representation – Trading Standards

Appendix G – Location of ‘other persons’ representation map

Appendix H – Representation Cordova

Appendix I – Representation Hare

Appendix J – Representation Hobson

Appendix K – Representation Hughes

Appendix L – Representation Phillpot

Appendix M – Representation Walton

Appendix N – Supporting information – Environmental Health