



Licensing Sub-Committee  
Thursday 16<sup>th</sup> February 2023

Wilfred Owen room -  
Shirehall

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 full variation to a Premises Licence.

Premises: Wyle Blue Restaurant, Café bar, 19 Wyle Cop, Shrewsbury, Shropshire, SY1 1XB

Shropshire Council being the authorised licensing authority for the above premises has received an application for a full variation. (A location map and location photographs are attached to the report as **Appendix A and B**).

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 variation at Wyle Blue Restaurant, Café bar, 19 Wyle Cop, Shrewsbury, Shropshire, SY1 1XB.

### **6. Background**

#### **6.1 Belinda Griffiths has made an application for a variation of the premises licence.**

The current premises licence is for the external area only of the premises which is situated in the Town Centre of Shrewsbury, surrounded by both residential and commercial properties.

The original licence was granted in May 2021 after a hearing was held due to representations off 'other persons' and the current licence was then varied July 2022; no hearing was held as no representations were outstanding following the consultation period.

From a Licensing perspective there was a complaint in August 2021 which related to multiple breaches subsequently dealt with by Environmental Protection and Planning due to separate legislation and restrictions.

A site visit was conducted prior to 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.

During consultation, amendments have been made by the applicant due to representations received off namely Environmental Protection.

- 6.2 The existing premises licence (**Appendix C**) and Plan (**Appendix D**) permits the following:

**Opening hours (1 April to 30 September)**

Monday to Tuesday 10:30 – 17:00  
Wednesday to Sunday 10:30 – 20:00

**Supply of alcohol (on sales) (1 April to 30 September)**

Monday to Tuesday 12:00 – 16:30  
Wednesday to Sunday 12:00 – 19:30

- 6.3 The variation application (**Appendix E**) and proposed Plan (**Appendix F**) seek to amend the following:

- Permit supply of alcohol externally for 12 months of the year
- Extend licensable area inside 19 Wyle Cop
- Add 'outside' to condition 9 within Public Nuisance to allow alcohol to be served without a meal or ancillary item inside.
- Add 'internal' to condition 5 within Crime and Disorder to allow CCTV coverage both internally and externally.

**Opening hours**

Indoors  
Monday to Sunday 10:00 – 23:30

Outdoors

Monday to Tuesday 10:30 – 17:00

Wednesday to Sunday 10:30 – 20:00

Non standard hours - New Year's Eve 09:00 until 01:00 on New Year's Day

### **Supply of alcohol (on sales)**

Indoors

Monday to Sunday 11:00 – 23:00

Outdoors

Monday to Tuesday 10:30 – 17:00

Wednesday to Sunday 10:30 – 20:00

Non standard hours – New Year's Eve 09:00 until 01:00 on New Year's Day

- 6.4 The applicant has not identified any current conditions to be removed off the licence.
- 6.5 In addition, within the application the applicant has also identified an additional condition to promote the four licensing objectives. The operating schedule details that the following steps would be taken:
- 6.5.1 Public Safety  
Numbers of local taxi firm(s) shall be kept at the premises and made available to patrons requiring a taxi

## **7. Representations received (Responsible Authorities)**

- 7.1 Representations had been received off Environmental Protection and then withdrawn.

Environmental Protection were concerned about the noise which could be generated in particular towards the properties above shops on the Wyle Cop and residential properties on Dogpole whose gardens adjoin the Terrace area of Wyle Blue. To prevent the external areas of the premises giving rise to a Public Nuisance, namely the Courtyard and Terrace the following were proposed and agreed with the applicant:

- The external areas to the rear of the building (courtyard and terrace) to be cleared of patrons by 17:00 Monday – Tuesday, and 20:00 Wednesday to Sunday.
- A gate to be fitted at the bottom of the metal staircase that leads to the Terrace, and the gate closed and locked at the above times to prevent accesses unauthorised access to the terrace.

- No drinks to be taken into, or consumed in the Courtyard or Terrace after 17:00 Monday to Tuesday , and after 20:00 Wednesday to Sunday.
- The rear door to the building to be closed after 20:00 until the end of trading except for access and egress
- *Alcohol can only be served with a meal, or as an ancillary item before and/or after a meal. This condition does not apply to the main building and is only applicable to the Courtyard and Terrace.*

7.2 Planning made comments only, the applicant has confirmed that they will be operating under a strict table service policy to comply with their current planning permission:

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 issued”.

However based on the information provided in the application to Vary a Premises Licence and the Plan which accompanies the application, it is deemed that the applicant would need to seek Planning Permission for a Change of Use from Class E (shop) to Sui Generis in order to act as a drinking establishment with food provision.

The application form states that the use of the premises will be a restaurant/ café bar with opening hours Monday – Sunday 10:00 – 23:30 serving alcohol between 10:00 – 23:00 hours daily and applies to amend the following condition of the existing licence:

*Restrictive condition under Annex 2, no 9 – Alcohol can only be served with a meal outside, or as an ancillary item before and/ or after a meal.*

The application form states that the applicant wishes to amend this condition in order for non-reserved walk in guests who may choose to just have a drink.

In light of this, the proposed use is not deemed as a Café/Restaurant as it is believed that this goes beyond the limits of the existing Use Class E. The definition of a café/ restaurant is (For the sale of food and drink for consumption on the premises – restaurants, snack bars and cafes), this definition refers to ‘food and drink’ not ‘food or drink’ and therefore for guests to be able to walk in and order drinks only, it is deemed that this would be a drinking establishment with food provision which falls under Use Class Sui Generis. If the Licence is granted and the above condition agreed then the applicant must be mindful that this can not be implemented until they obtain the correct planning permission for change of use at the premises.

The plan provided as part of the application refers to the kitchen of an existing dwelling where a door is to be created from the shop through to the residential kitchen, however both 19 Wyle Cop (the existing shop) and 18 Wyle Cop (residential dwelling) are listed buildings and therefore any internal or external

works required to facilitate this require Listed Building Consent, carrying out works to a listed building without consent is an offence and can result in court action and legal penalties. In light of this I would advise that the applicant contacts Shropshire Council's Historic Environment team via email at prior to carrying out any works.

7.3 There are no outstanding representations from Responsible Authorities.

## **8. Representations received (Other Persons)**

8.1 Three objections have been received from other persons, who have concerns in respect of the four licensing objectives. 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 premise becoming a pub if the 6 month restriction is lifted from the external part of the current licence, which would then allow customers to congregate in the external area and on Wyle Cop causing a noise nuisance. (Representations can be found at **Appendix H – J**).

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 the applicant 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 and accordingly amended. (Applicants reply to representations can be found at **Appendix K – M**)

## **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 as detailed in paragraph 6 and amendments/additions/conditions as agreed with authorities detailed in paragraph 7 of this report would need to be included in the licence, if deemed necessary, 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)**

Licensing Act 2003

<https://www.legislation.gov.uk/ukpga/2003/17/contents>

Guidance issued under section 182 of the Licensing Act 2003 (December 2022)

[Revised guidance issued under section 182 of the Licensing Act 2003 \(December 2022\) \(accessible\) - GOV.UK \(www.gov.uk\)](#)

The Licensing Act 2003 (Hearings) Regulations 2005

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

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

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

Shropshire Council Licensing Policy 2019 – 2024

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

**Cabinet Member (Portfolio Holder)**

Cllr Richard Marshall PFH (Highways and Regulatory Services)

**Local Member/s**

Cllr N. Green

**Appendices**

Appendix A – Location map

Appendix B – Location photographs

Appendix C – Current Licence

Appendix D – Current plan

Appendix E – Application (full variation)

Appendix F – Proposed plan

Appendix G - Location of 'other persons' representation map

Appendix H – Representation and additional supporting page Paul Higgins

Appendix I – Representation James Lloyd

Appendix J – Representation Alison Mckeever

Appendix K – Applicant's response to Higgins

Appendix L – Applicant's response to Lloyd

Appendix M – Applicant's response to Mckeever