

Hearing of Licensing Sub-Committee
New Premises Licence Application 24/01720/LPREM
Bobby's, 25 – 26 The Parade, St Mary's, Shrewsbury.

Formal response of Robert Bowland, Environmental Protection Officer, acting as the Responsible Authority for the licensing Objective - The Prevention of Public Nuisance

I am Robert Bowland and I work for Shropshire Council as an Environmental Protection Officer within the Environmental Protection Team. My duties include investigating and gathering evidence in relation to noise nuisances from commercial premises. Previously I worked as an Out of Hours Officer with responsibilities to monitor and regulate the Night-time Economy. I have 25 years' experience investigating noise complaints from both residential and commercial premises. My qualifications include a BTEC in Environmental Health, a Certificate in Acoustics, and the Professional Licensing Practitioners Qualification.

My primary role acting as the Responsible Authority for the Prevention of Public Nuisance is to ensure that the Premises Licence is framed to avoid the above Licensing Objective being undermined. Public Nuisance is not specifically defined in the Licensing Act 2003 and retains its broad common law meaning. It may include the reduction of the living and working amenity and environment of people living in the area of the licensed premises.

Acting as the Responsible Authority for The Prevention of Public Nuisance, I have concerns that the application in the current form will undermine the above Licensing Objective and accordingly **must formally object**. The application is for a Premises Licence to trade from 08:00 to midnight Monday to Saturday, and to 23:00 on Sunday. These times would apply to both the building and the Terrace. The applicant has applied to have Live and Recorded Music both inside and outside until midnight six days a week.

I have considered the application in detail giving due regard to the character of the area and the potential impact on near residential properties and offer the following comments.

The applicant wishes to use units 25 & 26 in The Parade which until recently traded as retail outlets, unit 26 was a Milliners, and unit 25 was a shop selling Japanese Food – called Setonaikai. I understand that the Setonaikai may have traded as a restaurant prior to 1996, but I have no detailed knowledge as to the scale and nature of the cooking that may have taken place.

I note that the applicant has installed a new kitchen. The extraction above the cooker uses carbon filters to recirculate air back into the kitchen rather than having an external extraction flue. The intended new use is as a Tapas Bar. Tapas typically consists of several small dishes which can be either be cold cuts or cooked dishes. Normally starters are cold, and the main dishes are generally cooked, typical dishes being Fried Squid rings, Garlic Prawns, Meatballs and Chorizo

The lack of external ventilation may be a constraint on the type of food and number of covers that can be catered for. In view of the lack of external ventilation I have concerns about the potential for odour complaints. To ventilate the kitchen, it is likely that windows and / or doors will be opened which could give rise to odour complaints. Odour is listed in the s182 guidance as a legitimate concern in relation to Public Nuisance.

The Environmental Protection Team are currently investigating an odour complaint from a resident who lives above 25 – 26 The Parade which was received on the 5th July 2024. The complaint relates to cooking odours emanating from the kitchen. It is alleged that the venue is cooking with doors open giving rise to the rancid smell of cooking fat and fried fish and that the person affected is unable to use the balcony or have windows open. This type of cooking would normally require an external extraction system, with a high-level discharge, possibly with odour abatement system fitted depending on the scale of the operation. The complaint is being investigated by colleagues in the Environmental Protection Team.

The building is of historical significance, having been built in 1830 as the Salop Infirmary and is Grade II listed. The ground and first floors are commercial units, primarily retail, and the upper floors are residential apartments, some with balconies facing the river. The properties have single glazed sash windows. There are balconies of residential properties in close proximity which overlook the proposed external terrace.

The site is in an elevated position and has a large terrace overlooking the river which until recently was used as a car park. The applicant also wishes to use part of the former car park as an external terrace with tables and seating for patrons as part of the business.

In addition to the residential properties above the commercial space, there are residential properties to both sides of The Parade, and residential properties across the river on the site of the former Gay Meadow Football Ground. There is no screening or physical barriers to stop sound travelling across the river.

While The Parade is within the town centre, this part of the town is largely residential and is relatively quiet with low background noise levels.

I note that the River View Café , No. 30 The Parade has a Premises Licence 23/00453/LVDPS allowing opening from 9 am to 5 pm Monday to Saturday. Closed on Sunday. Alcohol sales restricted to 11:30 to 16:30. Under Annex 2 there is a condition "*Alcohol will only be sold ancillary to a meal*". The Premises does have a number of evening events until 10pm. These are food events featuring a guest chef with selected patrons invited to attend. 3 temporary Licences known as a TEN were applied for in 2023 to facilitate the later opening hours.

25 – 26 The Parade is a difficult site in terms of mitigating the impacts of noise from patrons sat on the external terrace due to the proximity of noise sensitive receptors. The apartments on the second floor have balconies in close proximity to the proposed terrace area. Background noise levels are low in this area and any noise from the venue would be noticeable.

Sound from within the building can be contained by ensuring that any opening external windows and doors are kept shut. My understanding is that in the evening once The Parade shops have closed access into Bobby's will be via the external terrace. Every time this door into the main restaurant is opened there will be sound breakout. On reflection I am now of the opinion that the venue would benefit from a lobby double door system, so that the impact of noise from within the venue is reduced when patrons enter or leave.

I have no doubt that conversations held at a standard volume on the terrace would be audible by people enjoying their balconies, and possibly inside apartments if windows are partially open. However, the fact that sound is audible does not necessarily make it a public nuisance.

It is generally accepted that conversations become louder and change in character as alcohol is consumed. I am of the view that the site is not suitable as a bar, and that food must be the primary purpose of the venue. Food helps slow down the intake of alcohol and can reduce the negative impacts that alcohol can have on behaviour.

To ensure that the venue remains as a Tapas Bar (i.e. a food establishment) as opposed to a drinking establishment, I take the view, that a "restaurant" condition is required on the Premises Licence.

Tapas by definition is a collection of small plates dishes as opposed to a single main course; a "restaurant" condition can be worded to reflect this.

Having considered the application and given due regard to the potential for Public Nuisance I am of opinion that due to the proximity of sensitive noise receptors there is a need to significantly curtail the application in relation to the opening hours of the Terrace. I do not consider that it is appropriate to grant permission on the Premises Licence for the external terrace area to be used in the evening or on a Sunday

Should the committee be minded to grant a Premises Licence, I would suggest that that the following changes be made to the application and / the following conditions added to the operating schedule :

Changes to the Premises Licence

General

- The terminal hour for trading to be reduced from midnight to 23:00
- To facilitate 30 minutes drinking up time final alcohol sales to be at 22:30
- The Licensed area (red line) to be reduced to just the building. The external terrace area to be a consumption area to be shown as a hatched blue area on the plan.
- Windows and doors shall be kept closed after 18:00 except for immediate access and egress.
- Alcohol can only be served with a meal / light snack, or as an ancillary item before and/ or after a meal / light snack.
- No noxious smell emanating from the premises shall give rise to a significant negative impact to residents of nearby properties.
- A lobby double door system shall be added to the main entrance into the restaurant from the external terrace within 3 months of the Premises Licence being granted.

Terrace

- No alcohol to be taken off site in open vessels or containers except for consumption in the external terrace area as shown in the plan.
- Alcohol can only be served with a meal / light snack, or as an ancillary item before / or after a meal / light snack.
- Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables (i.e., no vertical drinking)
- The external terrace area shall be cleared of patrons by 17:00 Monday - Saturday, save for access and egress to the Premises.
- Outside tables and chairs to be rendered unusable after the above times.
- No alcohol or other drinks to be taken into or consumed in the external terrace area after 17:00 Monday – Saturday.
- The outside terraced area shall not be used on Sunday.
- There will be no fixed speakers or recorded music in the external terrace area.

- Any external lighting will be designed and positioned to avoid causing Light Nuisance to nearby residents.
- All external lighting to be turned off by 17:00 Monday– Saturday except for any lighting required for safety as opposed to decorative reasons.

For information the application has agreed to most of the above conditions, but to date has not agreed to the need to close Windows and Doors at 18:00 Hours, or to the reduced hours for using the outdoor space.

The condition requiring a lobby double door system has not been discussed with the applicant.

Robert Bowland

Shropshire Council

Environmental Protection Officer