



Committee and Date
Licensing Act Sub-Committee
Monday 16th March 2015
10.00 am

Item
3
Public

LICENSING ACT 2003

APPLICATION FOR A PREMISES LICENCE

Responsible Officer Simon Ditton, Public Protection Officer (Specialist)
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1. Summary

To consider an application for a Premises Licence.

Premises: Kwang Tung, 2 Beatrice Street, Oswestry, Shropshire, SY11 1QG. A location plan is attached to the report as Appendix A.

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

The application has been accepted as a valid application and during the statutory consultation period relevant representations were made. The application is 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.

After considering all the relevant issues the licensing authority may grant the application 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. It may also only allow certain requested licensable activities.

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 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 Premises Licence for Kwang Tung, 2 Beatrice Street, Oswestry, Shropshire, SY11 1QG (a Chinese takeaway).

6. Background

6.1 Mr Xou Ling You has made an application for a Premises Licence, the requested licensable activities and opening hours are:

Provision of Late Night Refreshment (off premises)

Wednesday to Monday – 23:00 to 00:00

Supply of alcohol off the premises

Wednesday to Monday – 16:00 to 00:00

Opening Hours

Wednesday to Monday – 16:00 to 00:15

The proposed designated premises supervisor is Ms Mee Fong Lau, who has been granted a personal licence on 2nd March 2015 by the Council (Licence number 15/00905).

6.2 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.

6.2.1 Prevention of Crime and Disorder

Security guards employed.

6.2.2 Public Safety

External lighting (including in car park).

6.2.3 Prevention of Public Nuisance

None.

6.2.4 Protection of Children from Harm

None.

7. Representations Received (Responsible Authorities)

West Mercia Police have made the following representation:-

“This is a town centre location operating within night time economy area and hours. Due to the risk of additional crime and disorder the Chief Officer of Police objects to the application in relation to alcohol sales but not late night refreshment. The Chief Officer is of the opinion that alcohol off sales from a late night refreshment premises, in this case a Chinese takeaway, does not meet the two areas which he has considered prevention of crime and disorder and protection of children from harm.

The application does not set out any of the four licensing objectives which appear not to have been considered in anyway whatsoever. From the prevention of crime and disorder and protection of children from harm this shows no understanding of how the sale of alcohol can impact on the town centre economy and cause crime and disorder. To give some clarity of this:

Prevention of Crime and Disorder the applicant submits, "Employing security guards." There is no reference to customers who may enter the premises clearly already drunk and they will be refused or the situation managed. The applicant has not considered staff training and how any record will be kept

and monitored. The applicant has not considered coloured digital CCTV being installed at the premises which would be required by the Chief Officer when off sales are being conducted within a night time economy area and hours, along with retention of the recordings and being available upon reasonable request.

Prevention of children from harm the applicant submits:- "(1) A licensing policy should not try and limit the access of children to premises unless it is necessary to protect them from harm." and "(2) On the other hand a licensing policy should not seek to require the admission of children to premises." These two statements do not make sense and again show a lack of understanding around the responsibility of alcohol sales and the impact they can have on the area, other people and those who may seek to purchase alcohol. This statement does not consider anything connected with prevention of children from harm. Eg of a challenge 25 policy and any person who looks under 25 to be asked for approved identification such as driving license, passport or PASS.

The applicant has provided a general description of the premises on the application in three words only, "Chinese Take Away". In the process of objecting to this application focus should also remain that the applicant sums up in their three words exactly what it is. The Chief Officer will object to this application unless the supply of alcohol off the premises is withdrawn. Then the Chief Officer would not object to the late night refreshment aspect of this application."

Shropshire Council Public Protection (Trading Standards) have also made representation as follows:-

"THE PREVENTION OF HARM TO CHILDREN

The application fails to include any of the steps that we encourage traders to implement to prevent underage sales. Their application fails to show how they intend to promote the licensing objectives and suggests that they have failed to understand their obligations under the Licensing Act. They have mentioned posters under the public nuisance objective, which is more suitable under the prevention of harm to children, but have failed to detail even the basic steps necessary to prevent underage sales, such as staff training. Based on this application, I have no confidence that they can prevent underage sales and therefore they put children at risk of harm."

The applicant has proposed no alteration to the application to seek to overcome the points raised in the representations and those representations have not been withdrawn.

8. Representations received (Other Persons)

None

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 paragraphs 6.2 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.
Guidance issued under section 182 of the Licensing Act 2003 (October 2014).
The Licensing Act 2003 (Hearings) Regulations 2005.
Application form and associated papers.
Copies of representations received.

Cabinet Member (Portfolio Holder)

Cllr S Charmley

Local Member

Cllr Keith Barrow

Appendices

Appendix A – Location Plan