



Licensing Act Sub-Committee

Wednesday 2nd September 2015

9.30am

Item

3

Public

LICENSING ACT 2003

APPLICATION FOR A REVIEW OF A PREMISES LICENCE

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1. Summary

To consider an application for a review of a Premises Licence.

Premises: St Nicholas Café, 24 Castle Street, Shrewsbury, Shropshire, SY1 2BQ. 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 review of a premises licence.

The application has been accepted as a valid application. 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

- take no further action
- issue informal/formal warnings to the Designated Premises Supervisor and/or Premises Licence holder
- modify conditions of the licence
- exclude a licensable activity from the scope of the licence
- remove the designated premises supervisor
- suspend the licence for a period not exceeding three months

- revoke the licence

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, licence holder and the parties/authorised bodies making relevant representations.

That the Sub-Committee determines the application in accordance with the options in paragraph 7.

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 any action on the licence holder's human rights.

4. Financial Implications

None.

5. Purpose of Report

To consider an application for a review of the Premises Licence for St Nicholas Café, 24 Castle Street, Shrewsbury, Shropshire, SY1 2BQ.

6. Background

- 6.1 Shropshire Council Public Protection, with responsibility for environmental health (the "Applicant"), has made an application for a review of a Premises Licence on the grounds that operations at the premises undermine the Prevention of Public Nuisance Licensing Objective. The application is supported by evidence of a series of issues with noise from music from the bar and anti-social behaviour people from congregating outside the premises.

- 6.2 The current Premises Licence was first granted on 11th April 2012 (Premises Licence Number PL/SC/14/00899). The Premises Licence holders are Mr Ben Smith and Mrs Stephanie Smith and the designated premises supervisor is Mr Philip Tracey.
- 6.3 The Applicant has been investigating complaints (from six neighbouring residential properties) of noise and public nuisance since May 2014. The complaints related to music noise from the bar and noise and anti-social behaviour from people congregating outside the premises, who were or had been using the premises.
- 6.4 The continuing noise nuisance issues at the site led to a noise abatement notice being served under the provisions of Part 3 of the Environmental Protection Act 1990 on 6th March 2015. This sought to prevent the occurrence of a nuisance by ceasing to hold musical entertainment, implementing an effective noise management plan or by any other means at the site to prevent the recurrence of a noise nuisance.
- 6.5 Despite that notice and the restrictions on the Premises Licence, noise nuisance issues continued. This application has been submitted with a view to addressing those issues.
- 6.7 During the consultation period, a representation was received from another responsible authority, the Police. There were a further eight representations from other persons, all representations supported the grounds for the review.

7. Options for Consideration

- 7.1 The options available to the Licensing Sub-Committee having considered all the relevant information are as follows:
- take no further action
 - issue informal/formal warnings to the Designated Premises Supervisor and/or Premises Licence holder
 - modify conditions of the licence
 - exclude a licensable activity from the scope of the licence
 - remove the designated premises supervisor
 - suspend the licence for a period not exceeding three months
 - revoke the licence
- 7.2 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.

8. Standard of Decision Making

- 8.1 In accordance with the provisions of the Licensing Act 2003 and the Council's scheme of delegation, all applications for a review of a Premises Licence have to be determined by this Sub-Committee.

- 8.2 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
- 8.3 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.
- 8.4 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.
- 8.5 For any restriction or condition to apply to live or recorded music between the hours of 08:00 and 23:00 for up to 500 persons (on the premises), a statement that Section 177A of the Licensing Act 2003 does not apply to the condition/restriction must be included.

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 (March 2015).
 The Licensing Act 2003 (Hearings) Regulations 2005.
 Application form and associated papers.
 Copies of the representations.

Cabinet Member (Portfolio Holder)

Cllr S Charmley

Local Member

Cllr A Bannerman

Appendices

Appendix A – Location Plan

Appendix B – Current Licence