



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING SUB-COMMITTEE

WEDNESDAY 28TH APRIL 2010, AT 10.00 A.M.

COMMITTEE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Councillors Mrs. R. L. Dent, D. McGrath and L. J. Turner

AGENDA

LICENSING SUB-COMMITTEE HEARING PROCEDURE (Pages 1 - 4)

1. Appointment of Chairman for the meeting
2. To receive apologies for absence and notification of substitutes
3. Declarations of Interest
4. To consider an application for a premises licence in respect of Martins, 65-67 Broad Street, Bromsgrove (Pages 5 - 24)
5. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

19th April 2010

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Appendix

LICENSING SUB-COMMITTEE

HEARING PROCEDURE

1. The Chairman will open the hearing and introduce members of the Sub-Committee and officers present.
2. The Chairman will ask all other people present to introduce themselves.
3. The Chairman will inform those present that the meeting is being recorded.
4. The Chairman will remind the Applicant and each party present that they can be represented by a legal representative at their own expense.
5. The Licensing Officer will present the report.
6. The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Licensing Officer.
7. The Chairman will invite the Applicant and/or his/her representative to present his/her case and call any witnesses. The Applicant will be allowed a maximum of 10 minutes to present the case.
8. The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Applicant.
9. The Chairman will invite the Responsible Authorities to present their representations. New representations must not be raised. The Responsible Authorities will be allowed a total of 10 minutes to present their case(s). If two or more Responsible Authorities wish to address the Sub-Committee the 10 minutes will be divided between them.
10. The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Responsible Authorities.
11. Interested Parties will be invited to present their representations or elect a spokesperson (which may be a Councillor) to speak on their behalf. New representations must not be raised. A maximum of 10 minutes will be allowed for the Interested Parties to present their case(s). If two or more Interested Parties wish to address the Sub-Committee the 10 minutes will be divided between them.

- 12. The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Interested Parties.**
- 13. The Interested Parties will be invited to sum up. A maximum of 5 minutes will be allowed.**
- 14. The Responsible Authorities will be invited to sum up. A maximum of 5 minutes will be allowed.**
- 15. The Applicant will be invited to sum up. A maximum of 5 minutes will be allowed.**
- 16. At the conclusion of the hearing all parties, including the Licensing Officer, will be asked to withdraw. The Members of the Sub-Committee, the Legal Adviser and the Committee Services Officer will remain.**
- 17. Once the Sub-Committee has reached its decision, all parties will be invited to return. The Sub-Committee's decision, together with the reasons for the decision, will be announced by the Chairman.**
- 18. The Sub-Committee's decision will be confirmed in writing to the Applicant and those parties who made representations.**

Please Note:

1. ***Each application coming before the Licensing Sub-Committee will be treated on its own merits, and the Sub-Committee will take its decision based upon:***
 - a) ***the promotion of the four licensing objectives, as given by the Licensing Act 2003, namely:***
 - ***the prevention of crime and disorder;***
 - ***public safety;***
 - ***the prevention of public nuisance; and***
 - ***the protection of children from harm;***
 -
 - b) ***Bromsgrove District Council's Statement of Licensing Policy;***
 - c) ***guidance issued under section 182 of the Licensing Act 2003; and***
 - d) ***the Licensing Act 2003.***
2. ***The Chairman may require any person who in his/her opinion is behaving in a disruptive manner to leave the meeting, and may refuse to permit that person to return, or permit him/her to return only on such conditions as the Chairman may specify. However, such person may, before the end of the hearing, submit in writing any information which he/she would have been entitled to have given orally at the meeting had he/she not been required to leave.***
3. ***Decisions may be taken in the absence of the Applicant or any other party. All notices and representations received from absent parties will be considered.***
4. ***Questioning must not be hostile or intended to unfairly undermine the position of any party.***
5. ***Late evidence will only be considered with the agreement of all parties present.***
6. ***In cases where a decision cannot be given at the end of the hearing, the decision will be made within 5 working days.***
7. ***An appeal to the Magistrates' Court against the Sub-Committee's decision must be lodged within 21 days of the date on which all parties were notified in writing of the decision of the Licensing Sub-Committee.***
8. ***All meetings are recorded.***

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BROMSGROVE DISTRICT COUNCIL

LICENSING SUB-COMMITTEE

APRIL 2010

APPLICATION FOR A PREMISES LICENCE – MARTINS, 65-67 BROAD STREET, SIDEMOOR, BROMSGROVE, B61 8LL

Responsible Portfolio Holder	Cllr. Whittaker
Responsible Head of Service	Head of Planning and Environment Services

1. SUMMARY

- 1.1 To consider an application to grant a premises licence in respect of Martins 65-67 Broad Street, Bromsgrove. Martins are presently trading as a newsagent and general store.

2. RECOMMENDATION

- 2.1 That Members determine the application. The application may be refused, or it may be granted in whole or in part (with additional conditions, if appropriate), and all of it or part of it may be applied to the whole or part of the premises provided that the Sub-Committee's decision is consistent with the licensing objectives and the Council's Statement of Licensing Policy.

3. BACKGROUND

- 3.1 The Licensing Authority has received an application for a new Premises Licence, in accordance with the Licensing Act 2003.

- 3.2 The new application to seeking the following permissions:

Sale of Alcohol for consumption Off the premises

- 06:00hrs – 22:00hrs Monday through to Sunday

Actual opening hours of the premises

- 06:00hrs – 22:00hrs Monday through to Sunday

- 3.3 As part of the application process, applicants are required to carry out a risk assessment of the effect the proposed licence would have on the four licensing objectives and what steps they intend to take in order to promote these objectives should the application be granted.

- 3.4 For ease of reference the four licensing objectives are:
- Prevention of crime and disorder;
 - Protection of public safety;
 - Prevention of public nuisance;
 - Protection of children from harm.
- 3.5 Details of the measures the applicant is prepared to take are set out at Appendix A. Should the licence be granted, these measures will form part of the licence, which the applicant will have to adhere to.
- 3.6 In accordance with the Licensing Act, a responsible authority is entitled to make representations. Responsible authorities include the Police Authority, Planning Authority, the Council's own Environmental Health Department, Fire Authority, Trading Standards and the Area Child Protection Committee.
- 3.7 No representations have been received from any of the responsible authorities.
- 3.8 In accordance with the Licensing Act, anyone residing in the vicinity of a premises for which an application has been made is entitled to make representations. Vicinity is not defined in the Licensing Act.
- 3.9 A representation has been made by a resident living near to the premises and a further representation has been made by a local business. Copies of the representations are attached at Appendix B. The basis of the representations relates to an increase in anti social behaviour, noise nuisance and litter in a residential area.
- 3.10 In accordance with (s13(3) Licensing Act 2003) which has been expanded so that elected councillors of the licensing authority can now make representations or seek a review in their own right, a representation has been made by a local councillor and is attached at Appendix B.
- 3.11 A plan showing the location of the premises is attached at Appendix C.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from this Report. However if either party made a successful appeal to the Magistrates' Court against the decision of the Council, the Council may be liable for any legal costs.

5. LEGAL IMPLICATIONS

- 5.1 Each party is entitled to appeal to the Magistrates' Court if they are dissatisfied with the decision of the Council, within 21 days from the date of decision.

- 5.2 The Sub-Committee must have regard to the Statutory Guidance, issued by the Secretary of State under Section 182 of the Licensing Act 2003. Paragraph 13.23 of the guidance states that:

“Need concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy. Need is a matter for planning committees and for the market.”

- 5.3 The Sub-Committee must have regard to the Council’s Statement of Licensing Policy.
- 5.4 The conduct of the Sub-Committee is governed by the Licensing Act 2003 (Hearings) Regulations 2005, as amended.
- 5.5 The Sub-Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights.

6. COUNCIL OBJECTIVES

- 6.1 This item links with the Council Objective CO2.

7. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS

- 7.1 The main risk associated with the details included in this report are:
- Decision made without having regard to Council Policy, Guidance issued by Secretary of State and governing legislation.
- 7.2 This risk is being managed as follows:
- Adhere to all licensing policies and legislation when determining applications for all licensing functions.
 - Risk Register: Planning and Environment Services
 - Key Objective Ref No. 8

8. CUSTOMER IMPLICATIONS

- 8.1 All parties will be notified of the Council’s decision in writing.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

- 9.1 All applicants are dealt with on their own individual merits are accepted in line with legislation and Council Policy.

10. VALUE FOR MONEY IMPLICATIONS

10.1 None.

11. CLIMATE CHANGE AND CARBON IMPLICATIONS

11.1 None.

12. OTHER IMPLICATIONS

Procurement Issues – None
Personnel – None
Governance/Performance Management – None
Community Safety including Section 17 of the Crime and Disorder Act 1998 – None
Policy – The Council’s Statement of Licensing Policy applies to this application. This reads: <i>“We will consider every application sent to us, on its individual merits. When we make licensing decisions we will promote:</i> <ul style="list-style-type: none">▪ <i>prevention of crime and disorder;</i>▪ <i>protection of public safety;</i>▪ <i>prevention of public nuisance, and</i>▪ <i>protection of children from harm.”</i> <p>The Council’s policy further states that: <i>“Licensing is not the primary mechanism for general control of nuisance and the anti-social behaviour of people once they are away from a licensed premises.”</i></p>
Biodiversity - None

13. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	Yes
Chief Executive	No
Executive Director (Partnerships and Projects)	No
Executive Director (Services)	No
Assistant Chief Executive	No
Head of Service	Yes
Head of Financial Services	No
Head of Legal, Equalities and Democratic Services	Yes
Head of Organisational Development & HR	No
Corporate Procurement Team	No

14. WARDS AFFECTED

Sidemoor.

15. APPENDICES

Appendix A – Operating Schedule

Appendix B – Letters of representation

Appendix C – Location plan of the premises

16. BACKGROUND PAPERS

Application form received on 10th March 2010

Email received from Environmental Services dated 24th March 2010

Contact officer

Name: John Davies, Licensing Assistant

E Mail: john.davies@bromsgrove.gov.uk

Tel: (01527) 881473

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P Describe the steps you intend to take to promote the four licensing objectives:

a) General - all four licensing objectives (b, c, d, e) (please read guidance note 9)

The subject premises will apply a standard of operation which will ensure compliance with all four licensing objectives based upon factors more particularly outlined in Sections (b) to (e) below.

b) The prevention of crime and disorder

The style of operation at these premises is designed to minimise crime and disorder. This will be achieved by the use of CCTV with the retention of tapes or discs, for a minimum period of 31 days for prosecution purposes. The premises seek to benefit solely from the sale of alcohol for consumption off the premises. These premises will operate a Challenge 21' policy as a minimum in order to ensure that liquor is sold only to persons of lawful age (being that, should a person not look the age of 21 then he/she would need to prove they are in fact of lawful age 18 or over). These issues also overlap on the section dealing with protection of children from harm. All staff undergo training concerning knowledge of Licensing Laws together with the social impact of the sale of alcohol.

c) Public safety

The premises will comply with current legal requirements for Fire Safety and Health and Safety including periodic risk assessments.

d) The prevention of public nuisance

These premises are proposed to be licensed for the consumption of liquor off the premises only. In addition to there being no consumption on the premises, there is no form of entertainment on the premises. There are no outdoor areas utilised for the benefit of members of the public and the nature of the operation does not require the employment of door supervisors or use of dedicated cab firms. The premises operate within the required litter/refuse regulations adopted by the Local Council. The management policy at the premises is to welcome communication with any local persons in relation to any issues which arise concerning the operation of these premises.

e) The protection of children from harm

It is proposed that these premises will benefit from a Premises Licence for consumption off the premises only. In order to ensure compliance with the legislation, the Company will operate a 'Challenge 21' policy as a minimum whereby any person not looking the age of 21 must prove that they are in fact over the lawful age of 18 for the purpose of sale of alcohol. Acceptable forms of identification concerning the issue of age are a Ten Year Passport, a photocard driving licence or an approved PASS logo proof of age card. All Staff are obligated to familiarise themselves with these requirements. The Company will operate a due diligence policy, incorporating the minimum Challenge 21 policy above; also incorporating full training for all staff, the operation of a refusals book and refresher training on a regular basis. The store will operate a fully recordable CCTV system which is overtly operable. There will be prominent signage located throughout the store confirming the legal minimum age for the purchase of alcohol and other age related products and the Company policy.

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Mr John Davies
Planning & Environment Services
Bromsgrove District Council
The Council House
Burcot Lane
BROMSGROVE
B60 1AA

31st March 2010

Dear Mr Davies

LICENCE APPLICATION - MARTINS, 65/67 BROAD STREET, BROMSGROVE

I refer to the recent application by Martins to sell alcohol, and would raise objections on the following basis:

Having lived, [REDACTED] the business for the last 27 years, the premises have not been well maintained over the last 20 years or so, and the business seems to have been in a state of decline. The frontage is not cleared, and the building generally has a poor appearance - this is equally the case inside the shop. I do not believe that selling additional goods and opening extra hours will change this. I assume that Martins would have to install steel shutters for security, and this would also spoil the appearance of the area.

Also, if CCTV is to be used will this cover the outside area? When there was an off-licence further down Broad Street, we often found that cans/bottles etc were left at the rear of our premises in our car parking area, as young people would use this to hide from the road and consume their purchases. I am concerned that we would suffer from increased disorder in the area as well as more litter.

Car parking in the area is now limited as there are double yellow lines outside the premises, and in the evening the residents park their own cars on the road, as they do not have off-street parking. There could therefore be a problem with traffic flow and access.

When we purchased the premises in 1983, the frontage was protected by a fence around the perimeter, and we took this down to give our clients easy access. The frontage has since also been used by the general public as they pass along the street. If permission is given to change the use of 65/67, we will reinstate the fence to protect our property from damage and litter, and the public will have to use the narrow footpath. We will also have to install security lighting to the rear (and possibly CCTV), and would seek compensation for the extra expense.

I hope that you will take these points into account when making your decision, but please contact me if you have any queries or require further information.

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1st APRIL 10

Dear Mr Davies,

We note with some trepidation that our local newsagent, MARTINS 65-67 Broad Street, has made an application to become a licensed premises.

It worries us. We have lived for 15 years [REDACTED]

[REDACTED]

Since living here we have frequently had nuisance noise back to the front and rear, where bottles and tins are thrown over the fence. The noise we sometimes find frightening.

This type of nuisance increased when the 'out-door' licensed shop opened down the road. I feel that selling alcohol almost on our doorstep can only worsen the points outlined below:-

Rubbish

Some years ago, I approached the then manager of Dillons, now Martins, regarding the possibility of replacing the burnt out bin outside their

shop, pointing out that outside his shop^② was not a good site due to the rubbish and would he consider sweeping his frontage at the end of the day. It would present a better picture of Sidemore and alot of this rubbish blows up our drive daily - paper packets from crisps, sweets, cigarettes etc and sometimes soft drink cans.

I had a negative response so I contacted head office. The verbal response was positive but unfortunately only promises and no action.

When I again approached the manager, my request was overruled by one of the younger staff who told me where to go!

The manager stood there quiet.

It's put me off approaching anymore.

Nuisance factor

When there was a licensed shop down the road we frequently had people congregating behind Tukes, [REDACTED]

[REDACTED] with cans which were thrown or left on our drive and surround.

I started putting on my security light till I found my drive and caravan littered with broken eggs and the usual cans around.

My wife was frightened when this^③ happened and told her to leave them to it.

This nuisance has stopped since the local supplier of alcohol closed.

Regarding Parking

The footpath in front of Martins is a short term car park after blocking the pedestrian way completely, even when there is space in the roadside 20yds up.

Our shared drive is also used for short term parking by people visiting Martins. I have asked people, nicely, not to block the drive, but no longer request this having had a very angry motorist drive at speed towards me, following such a request and abuse from him, I don't know how he did it, but he stopped with his bumper touching my trousers.

This was witnessed, by my wife, through the kitchen window.

Can you imagine the shock!?

In the last two years I have twice been close to being knocked off my bike as I approached the road from my drive

by motorists, coincidentally arriving⁽⁴⁾ at the same time, using our drive ramp from the roadside to run up onto the path in front of Martens.

The first time it happened my front wheel was hit sideways although I was stopping at the road edge still in my drive.

Why?

We constantly hear of the bad effects of consuming x5 alcohol in the media and coming into contact with it in Browns Grove centre has put us off going out at night, especially in the dark. Why would I want it local? I don't,

as we see the future should this happen: -

- Rubbish on the local street. ↑
- Rubbish on our drive and garden. ↑
- likelihood of nuisance noise. ↑
- likelihood of people congregating local. ↑
- Cars blocking the path and drive. ↑

STRESS, ↑

FEAR, ↑

GOING OUT EVENINGS. ↓

Please, please, give consideration
to the local folk and the elderly
people [REDACTED]

We are requesting you to reject
this application to allow alcohol
to be sold at Martins.

APPENDIX B

From: David Pardoe
Sent: 01 April 2010 18:35
To: John Davies
Subject: FW: Licensing Application for Martins 65-67 Broad Street
Importance: High

Dear John

I am writing with reference to the licensing applications for Martins 65-67 Broad Street. In line with the 4 licensing objectives I have the following points that I wish to raise:

Prevention of crime and Disorder

- Previously there has been a licensed premise in Sidemoor and it proved problematic. It was a magnet for young people and often led to vandalism and low levels of anti social behaviour in the area.
- The proposal states there will be CCTV inside the store, however nothing outside to monitor the immediate location
- Presumably as they are intending to sell alcohol from the premises, stock will be stored on site. What security proposals do they have for the store security? i.e. Roller shutters etc.

Prevention of public nuisance

- Historically when the previous wine store was on Broad Street we had frequent issues with antisocial behaviour. All businesses in Sidemoor are located in this area. I will be very surprised if some of the proprietors of these businesses do not make their own personal representations expressing concern over security and previous experience.

Public Safety

- Directly opposite the store are residential properties without any off street parking facility. At present there is only 2 on carriageway spaces for people to use when at the shop. The current parking restrictions are already often ignored with people parking on the yellow lines frequently.
- The shop has traditionally closed at 5.30pm, however with later opening times and the dark nights I believe there could be a danger for people trying to cross the road.
- Broad street is recognised as a very busy road, it is a bus route and traffic speeds are in some cases excessive. This could potentially present an accident risk.
-

Protection of children from harm

- It is accepted that there is a recognisable degree of social deprivation in Sidemoor including concerns around young people with regards to tobacco, alcohol, and teenage pregnancy. Although we are making every effort to improve this situation, another ready source of alcohol in Sidemoor will not help our efforts.

In conclusion, having spoken to a lot of the residents in the area I can confidently say that the area is a quieter area, with less vandalism lower levels of anti social behaviour since the old wine store closed and therefore I wish to object to the granting of this.

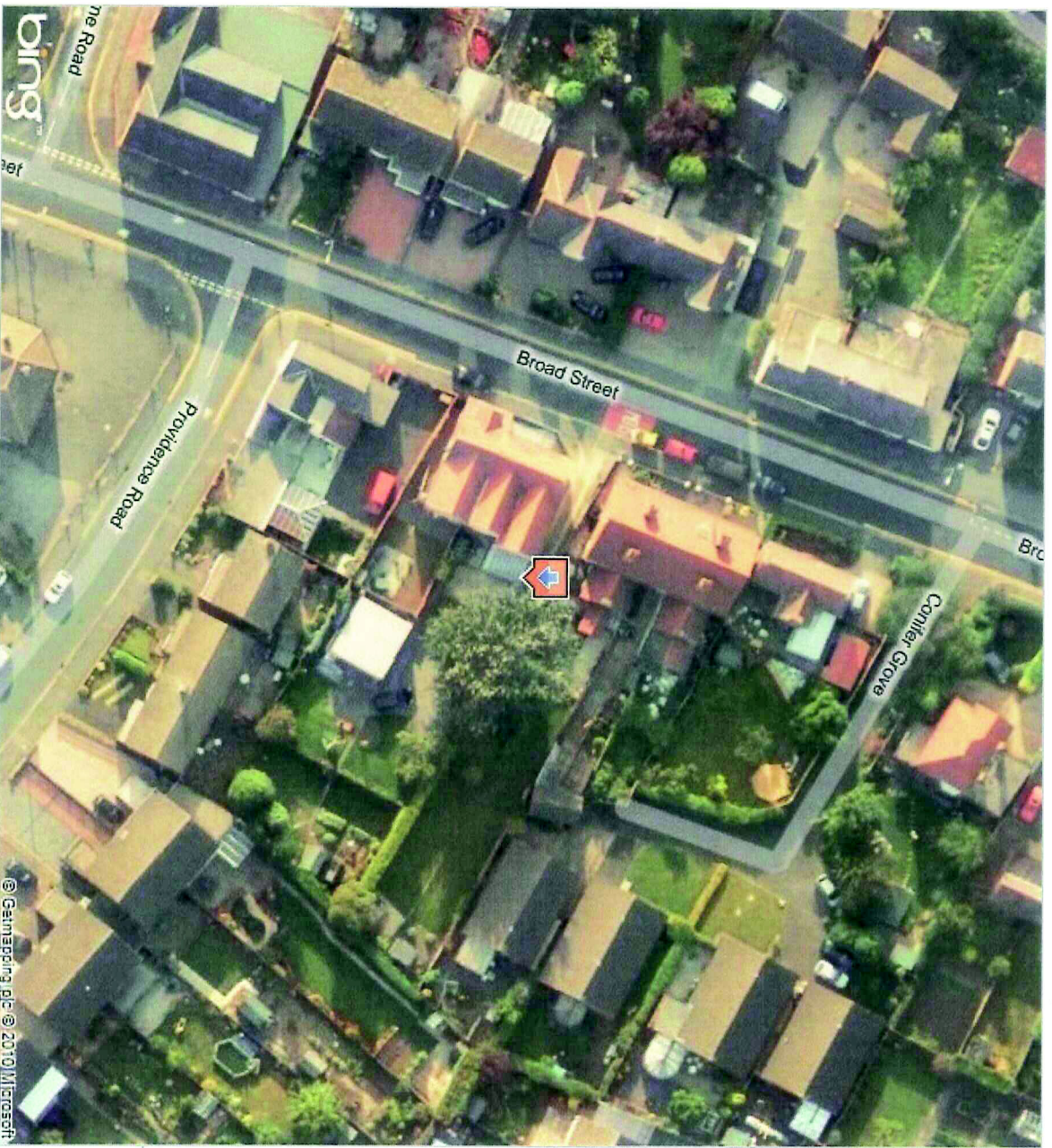
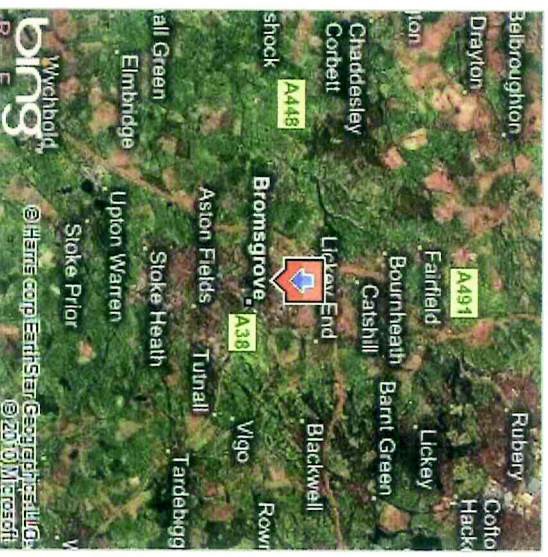
Yours Sincerely
Cllr D L Pardoe

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Bing Maps

B61 8LL

My Notes



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