

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING SUB-COMMITTEE

MONDAY, 26TH NOVEMBER 2012 AT 6.00 P.M.

PRESENT: Councillors Ms. M. T. Buxton, S. J. Dudley and Mrs. J. M. L. A. Griffiths

Observers: Councillor Mrs. H. J. Jones

Officers: Mrs. V. Brown, Mr. S. Alom and Mrs. P. Ross

Also in attendance: Mr. R. Botkai, Partner, Winckworth Sherwood, Applicant's Representative, Ms. N. Gray, Malthurst Limited, Mr. Naveen Pyneni Jeevanandam, Site Manager, Malthurst Bromsgrove and Mrs. P. Foskett

16/12 **APPOINTMENT OF CHAIRMAN FOR THE MEETING**

RESOLVED that Councillor Mrs. J. M. L. A. Griffiths be appointed Chairman of the Sub-Committee for the meeting.

17/12 **APOLOGIES FOR ABSENCE**

No apologies for absence were received.

18/12 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

19/12 **PROCEDURE**

The Chairman opened the Hearing and introduced the Members of the Sub-Committee and officers present to the Applicant's representatives and all other parties present, so that no person who may be in a position to influence the Sub-Committee withdrew from the meeting room with the Sub-Committee when the Sub-Committee considered its decision at the conclusion of the Hearing.

The Chairman invited all those parties present to identify themselves.

20/12 **APPLICATION FOR A PREMISES LICENCE IN RESPECT OF MALTHURST BROMSGROVE, 88 BIRMINGHAM ROAD, BROMSGROVE, B61 0DF**

The Sub-Committee was asked to consider an application for a premises licence in respect of Malthurst Bromsgrove, 88 Birmingham Road, Bromsgrove, B61 0DF. The application was subject to a Hearing in light of 41

representations received with 40 letters of objections received from residents. The basis of their representations related to:

- Noise
- Disorder
- The possibility of crime.
- Nuisance to elderly residents in the retirement flats and care homes close by.
- Safety of Children in the area.

The Technical Officer, Licensing, Worcestershire Regulatory Services (WRS) introduced the report and in doing so informed all those present to disregard two of the letters of representation received, as detailed at pages 38 and 48 to the report, as these had been withdrawn.

The Technical Officer drew Members' attention to page 73 of the report, an email received from Mr. Robert Botkai, Partner, Winkworth Sherwood. In response to the concerns raised by residents with regard to the trading hours applied for, for the sale of alcohol off the premises, as detailed in the original application; the application was to be amended to reduce the hours sought for the sale of alcohol off the premises as follows:

- Monday to Sunday 06:00 a.m. to 12 midnight.

The case for the applicant was put forward by Mr. R. Botkai, Partner, Winkworth Sherwood, the applicant's representative. He confirmed that as stated by the Technical Officer (WRS) and in response to the concerns raised by residents the applicant was applying for reduced hours for the sale of alcohol off the premises. He realised the application had caused some concern and confusion and clarified that the application was for a new build for Malthurst Bromsgrove with a small Spar convenience store. He informed Members that no representations had been received from any of the Responsible Authorities. Mr. Botkai informed all those present that Malthurst Limited currently operated 176 licensed premises. As detailed in the application a CCTV system would be installed and fully operational throughout the hours that the premises would be open for any licensable activity. A Challenge 25 policy would apply to the premises and all cashiers would be trained with regard to the Challenge 25 policy and a refusal book would be kept at the premises.

At the invitation of the Chairman Mrs. P. Foskett spoke on behalf of those residents who had submitted representations, some of whom were in attendance during the meeting. Mrs. Foskett informed the Sub-Committee that residents were not questioning the planning application, but the need for another retail outlet in the area. Residents had experienced noise disturbance with alcohol being consumed in an (Alcohol Free Zone), Designated Public Places Order and were concerned that a further retail outlet selling alcohol for the original hours applied for would exacerbate an already existing situation.

In response to the concerns raised by Mrs. Foskett on behalf of those residents who had submitted representations, Mr. Botkai highlighted that it

was difficult to prove that the new premises would exacerbate or cause any additional problems in the area. He would ask residents, in the first instance, to contact the store manager with their concerns and that resident's could call for a review of the licence should any problems occur.

The Council's Legal Advisor advised that the need of the area was not a consideration the Sub-Committee should consider. Members should refer to the residents' representations received, as detailed in the report, and only take into consideration issues that relate to the premises application and not the issues as highlighted by Mrs. Foskett that already existed in the area.

Having had regard to:

- The licensing objectives set out in the Licensing Act 2003
- The Council's Statement of Licensing Policy
- The guidance issued under section 182 of the Licensing Act 2003
- The Report presented by the Technical Officer, Licensing, Worcestershire Regulatory Services
- The application and representations made by the Applicant's Legal Representative
- The relevant representations made in writing and at the hearing from Mrs. P. Foskett on behalf of those residents

RESOLVED that the application for a premises licence relating to Malthurst Bromsgrove as set out in the Operating Schedule, save for an amendment, as requested by the Applicant, regarding the hours for the sale of alcohol off the premises, be granted.

- 06:00 a.m. – 12 Midnight Monday to Sunday, sale of alcohol off the premises
- 11:00 p.m. – 05:00 a.m. Monday to Sunday, sale of late night refreshment off the premises

An additional condition was agreed by the Applicant that:

- The licence holder would monitor the primary use of the premises and if transaction data demonstrated that the premises were excluded premises, pursuant to Section 176 of the Licensing Act 2003, that the sale of alcohol would cease until such time as the data demonstrated that the premises were not so excluded. Such data would be made available on request to the police and licensing authority.

The reasons for the Sub-Committee's decision were as follows:

- The Sub-Committee had considered the amended application made by the Applicant and the oral representations made by the Applicant's Legal Representative. The Sub-Committee found that the conditions promoted the licensing objectives and therefore it was appropriate to grant the licence.

- The Sub-Committee had considered the written representations and the oral representations made on behalf of the residents of Brook Court. The Sub-Committee did not find that the matters raised were relevant to the premises licence application under consideration.
- The Sub-Committee noted that the objections raised related to problems that already existed in and around the town, and that the application related to a premises yet to be built and therefore such objections and concerns could not be attributed to the Malthurst Bromsgrove application.
- The Sub-Committee noted that no representations had been made by any of the Responsible Authorities.

The following legal advice was given:

- that the Licensing Objectives must be the paramount consideration;
- that the Sub-Committee should only have regard to the representations which promote the licensing objectives;
- that any reference to alcohol related problems not directly linked to the premises must be disregarded as should any comments regarding the needs of the area for alcohol sales;
- conditions must be necessary for the promotion of one or more of the licensing objectives; conditions may not be imposed for any other reason.

An appeal to the Magistrates' Court against the Sub-Committee's decision must be lodged within 21 days of the date on which written confirmation of the decision was received by the Applicant.

The meeting closed at 7.36 p.m.

Chairman