

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING SUB-COMMITTEE

THURSDAY, 10TH MARCH 2016 AT 6.04 P.M.

PRESENT: Councillors B. T. Cooper, C. M. McDonald and L. J. Turner

Observers: Councillor S.A. Webb

Officers: Mrs. V. Brown, Mr. S. Alom, Ms. E. Rhodes (Observing) and
Mrs. P. Ross

Also in attendance: Mr. J. Bayley, Applicant and Mr. A. Bayley, father of
the applicant.

20/15 **ELECTION OF CHAIRMAN FOR THE MEETING**

RESOLVED that Councillor B. T. Cooper be appointed Chairman of the Sub-Committee for the meeting.

21/15 **APOLOGIES**

No apologies for absence were received.

22/15 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

23/15 **PROCEDURE**

The Chairman opened the Hearing and introduced the Members of the Sub-Committee and officers present to the applicant, 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 welcomed the applicant Mr. Jack Bayley and his father Mr. Andrew Bayley.

24/15 **APPLICATION FOR A PREMISES LICENCE IN RESPECT OF BAYLEY'S OF BROMSGROVE, 6 WORCESTER ROAD, BROMSGROVE, WORCESTERSHIRE, B61 7AE**

The Sub-Committee was asked to consider an application for a Premises Licence, submitted by Mr. Jack Bayley in respect of Bayley's of Bromsgrove, 6 Worcester Road, Bromsgrove, Worcestershire, B61 7AE. The application was subject to a Hearing initially in light of three representations received from

local businesses. Members were asked to note that following discussion with the applicant that two of the representations received from local businesses were withdrawn on Tuesday 8th March 2016. The basis of the remaining representation related to:-

- Playing of recorded music between 08:00 a.m. and midnight.
- The showing of films and the type of films to be shown.
- Sale of alcohol for consumption on and off the premises between the hours of 08:00 a.m. and midnight.
- Customers using the front of the premises as a smoking area.

The applicant was informed that Councillors B. T. Cooper and C. M. McDonald had conducted a site visit, an unannounced visit to the exterior of the premises.

The Technical Officer (Licensing), Worcestershire Regulatory Services (WRS) introduced the report, and in doing so, informed all those present that the application submitted by Mr. Bayley was to apply for the following licensable activities:-

- Exhibition of Films - indoors, every day, from 08:00 to 00:00
- Playing of Recorded Music - indoors, every day, from 08:00 to 00:00
- Sale of Alcohol - indoors, every day, from 08:00 to 00:00

The designated premises supervisor identified on the application was the applicant Mr. Jack Bayley.

The Technical Officer (Licensing), Worcestershire Regulatory Services (WRS) drew Members' attention to the fact that no representations had been received from any of the Responsible Authorities.

At the request of the Chairman, the applicant put forward his case in favour of his application. Mr. Bayley highlighted to the Sub-Committee that there would be two sides to the business.

At this point in the Hearing and with the agreement of all those present, Mr. Bayley provided Members with detailed written information on the concept of the business.

Mr. Bayley explained that the majority of products on sale would be available to take away, as the premises did not have the capacity to cater for a large number of customers on the premises. The main element of the business would be to sell a range of high end premium wines, champagnes and craft beers. The second side of the business would be to provide specialist locally sourced coffees and hot drinks, hence the reason his application was from 08:00 a.m.

Primarily both alcohol and hot drinks would be purchased to take away, to be consumed off the premises, however, customers would also have the opportunity to purchase a shot of the premium wines, champagnes and craft beers, in order to try before making a purchase.

Mr. Bayley reiterated that the premises would have a limited number of seats and that the set-up of the shop was not that of a bar or restaurant and that he did not intend to trade as such.

Mr. Bayley continued and explained that his application had requested a number of other licensable activities. This was to provide customers with the opportunity to purchase a sample of the specialist product range in a pleasant environment with a relaxing atmosphere. The playing of recorded music would be ambient background music, as the intention was for staff to converse with customers about the specialist range of products available to purchase. The music would not be played at a level to impact on nearby businesses.

The showing of films would be on a small pull down screen, as indicated on the plan submitted with his application. The showing of short films to promote products and lifestyle; with promotional material from small companies to promote their products to potential customers, 'meet the brewer' type events.

Mr. Bayley expressed his concern, as highlighted in the representation from Flash Photography Studios Limited, with regard to the potential for people congregating outside the premises to smoke. Mr. Bayley stated that his intention was to attract a particular clientele and he did not envisage his clientele smoking outside the premises and that the majority of businesses on the Worcester Road did not facilitate people smoking outside their premises.

In response to questions from Members, Mr. Bayley informed the Sub-Committee that he had been in the retail industry for eight years and was currently employed as Duty Manager at the O2 Academy. Although he did not have any experience of running an off licence, he did have a clear understanding of the four licensing objectives.

In response to the Technical Officer, (Licensing), WRS, Mr. Bayley stressed that the main element of his business would be off sales; customers would not be encouraged to remain on the premises consuming large amounts of alcohol. Anyone looking to enter the premises that appeared to be intoxicated would not be served. If he had any concerns or experienced any problems he would look to employ door staff. Mr. Bayley continued and informed the Sub-Committee that he was aware that the area was an Alcohol Free Zone and he was happy to remind customers of this by placing a polite notice in the window, the polite notice would also ask customers to leave the premises quietly to avoid disturbing local residents / businesses. Mr. Bayley further explained that he would use a home surround sound system kit with a sub-buffer to ensure the music was not too loud.

At the invitation of the Chairman Mr. Bayley was given the opportunity to sum up.

In summing up, Mr. Bayley emphasised the concept of the business and that he was trying to provide high end products to local residents and was also hoping that the range of specialist products on sale would attract and draw new clientele into the district.

The Council's Legal Advisor, advised Members that in considering the application before them they should take into account the evidence as presented in the report and heard during the course of the Hearing; and the four Licensing Objectives. Members were reminded that two of the representations submitted had subsequently been withdrawn following discussions with the applicant. Members were also advised that although no one had attended the Hearing from Flash Photography Studios Limited, Members should still have regard to the letter of objection and consider the weight that should be attached to it in light of the licensing objectives.

In making their decision, Members should have regard to the evidence attributed to the premises, whilst taking into account that the premises had not actually opened. As highlighted earlier during the course of the Hearing, the Council's Legal Advisor drew Members' attention to the fact that no representations had been received from any of the Responsible Authorities.

The Chairman announced to all those present that the decision of the Sub-Committee would be sent to the applicant and all those who had submitted representations within five working days.

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 Act
- The Report presented by the Technical Officer (Licensing), Worcestershire Regulatory Services
- The relevant written representation from Flash Photography Studios Limited.
- The application, oral representations and additional information presented at the Hearing by the applicant.

The Sub-Committee has decided to grant the application for a Premises Licence relating to Bayley's of Bromsgrove, 6 Worcester Road, Bromsgrove, Worcestershire, B61 7AE, as set out in the Operating Schedule.

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

- The Sub-Committee had noted and considered the written and oral representations made by the applicant Mr. Jack Bayley. In particular the Sub-Committee noted that this was a specialist business to supply a range of high end liquor and craft beer and additionally specialist coffee's to take away.
- The Sub-Committee noted that the playing of films would be used primarily for promotional features and recorded music was for background ambience and therefore should not be at a level that would be intrusive or cause a nuisance.

- The Sub-Committee was impressed with the applicant's level of experience and knowledge of the industry and noted that he was also to be the Designated Premises Supervisor (DPS) for the premises.
- The Sub-Committee noted the applicant's awareness of the area and his willingness to adapt and review his business procedures should the need arise.
- The Sub-Committee was mindful of the fact that there had been no representations from any of the Responsible Authorities and that two of the representations received from local businesses had been withdrawn following discussions with the applicant.
- The Sub-Committee had considered the written representation submitted by Flash Photography Studios Limited with regard to:-
 - noise nuisance emanating from the premises.
 - the sale of alcohol for consumption on and off the premises and the showing of films between 08:00 hours to midnight.
 - the type of films to be shown.
 - customers using the front of the premises as a smoking area.
- The Sub-Committee noted the applicant's response to the objections raised and was satisfied that the concerns were taken seriously. Having heard the clarification with regards to the showing of films and playing of music Members were of the view that such concerns could be adequately addressed by the imposition of conditions as detailed on the Operating Schedule.
- The Sub-Committee took the view that all of the evidence presented to it, rather than those matters of simple conjecture, pointed to the fact that the applicant would be a responsible operator, running well managed premises, and the promotion of the licensing objectives would best be served by granting the premises licence applied for, subject to the conditions as detailed within the application.
- The Sub-Committee would remind all parties that if evidence subsequently came to light regarding any of the licensing objectives then it would be open to the police or local residents or any other responsible authority to seek a review of the licence.

The following legal advice was given:

- that the Licensing Objectives must be the paramount consideration.
- that the Sub-Committee may only have regard to the representations which promote the four licensing objectives; and evidence relevant to those objectives.

- the Sub-Committee must consider only those matters directly relevant to the premises.
- In imposing conditions the Sub-Committee must ensure that they are appropriate for the promotion of the licensing objectives.

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 6.37 p.m.

Chairman