

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING SUB-COMMITTEE

THURSDAY, 11TH AUGUST 2016 AT 6.08 P.M.

PRESENT: Councillors M. T. Buxton, B. T. Cooper and C. J. Spencer

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

Also in attendance: Mr. C. Lockett, Lockett & Co, the applicant's representative, Mrs. P. Bridge and Mr. G. Deeley, local residents

1/16 **ELECTION OF CHAIRMAN FOR THE MEETING**

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

2/16 **APOLOGIES AND NOTIFICATION OF SUBSTITUTES**

It was noted that Councillor C. J. Spencer, Reserve Member, was substituting for Councillor P. L. Thomas.

3/16 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

4/16 **PROCEDURE**

The Chairman opened the Hearing. Members of the Sub-Committee and officers present give brief introductions to the applicant's representative and all those 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 welcomed all those present and apologised for the late commencement of the meeting.

At the request of the Chairman, all those present gave a brief introduction.

5/16 **APPLICATION FOR A PREMISES LICENCE IN RESPECT OF BELBROUGHTON RECREATION CENTRE, THE RECREATION COMMUNITY CENTRE, HARTLE LANE, BELBROUGHTON, BROMSGROVE, WORCESTERSHIRE, DY9 9TG**

The Sub-Committee was asked to consider an application for a Premises Licence, submitted by Belbroughton Beer Festival Limited, Kings Chambers, Queen Cross, High Street, Dudley, DY11 1QT, in respect of Belbroughton Recreation Centre, The Recreation Community Centre, Hartle Lane, Belbroughton, Bromsgrove, Worcestershire, DY9 9TG.

The application was subject to a Hearing initially in light of twelve representations received from members of the public. The basis of the twelve representations was on the grounds of:-

- The Prevention of Public Nuisance
- The Prevention of Crime and Disorder
- Public Safety
- The Protection of Children from Harm

All those present were informed that Councillor B. T. Cooper had conducted a site visit, an unannounced visit to the site for which the premises license had been submitted.

With the agreement of the applicant's representative, a larger scale map of the area, which detailed both public footpaths, was distributed to all those present.

The Licensing Technical Officer, Worcestershire Regulatory Services (WRS), introduced the report and in doing so asked Members and all those present to note that following discussions and mediation with the applicant's representatives, Lockett & Co, Retail, Licensing & Training Consultants; the representations received from the Environmental Health Team, WRS, had been withdrawn.

At the request of the Council's Legal Advisor and in agreement with the Chairman and all those present, the information with regard to the representations received from the Environmental Health Team, WRS, and the conditions as agreed by the applicant's representative was circulated to Members of the Sub-Committee and all those present.

The Licensing Technical Officer, WRS, drew attention to paragraph 2.4 in the report which detailed the licensable activities the applicant was applying for, as follows:-

Activity	Days	From	To	Indoors/ Outdoors
Anything of a Similar Description to Recorded Entertainment	Everyday	11:00	- 23:00	
Performance of Live Music	Everyday	11:00	- 23:00	Both
Playing of Recorded Music	Everyday	11:00	- 23:00	Both
Sale of Alcohol	Everyday	11:00	- 23:00	

In response to the Chairman, the Licensing Technical Officer, WRS, informed the Sub-Committee that WRS had not received any complaints

with regard to previous beer festivals held on the site under Temporary Event Notices.

In response to the question raised by Mrs. P. Bridge, the Licensing Technical Officer, WRS, informed the Sub-Committee that under the requirements of the Licensing Act 2003, all responsible authorities were served a copy of the application. WRS were not responsible for the closure of public footpaths. Worcestershire County Council (WCC), Highways Department were responsible, therefore he was not in a position to comment on the closure or obstruction of a public footpath. The Licensing Technical Officer, WRS, highlighted that WCC, Highways Department were not classed as a responsible authority, and therefore they would not have been served a copy of the application.

The Licensing Technical Officer, WRS, further clarified that as a responsible authority West Mercia Police were served with a copy of the application and that no response objecting to the application had been received from them.

The case for the applicant was then put forward by Mr. C. Lockett, Lockett & Co, Retail, Licensing & Training Consultants.

Mr. C. Lockett gave apologies on behalf of Mr. R. G. Morgan, Designated Premises Supervisor who had been unable to attend the Hearing. With the agreement of the Chairman and all parties present, Mr. C. Lockett provided copies of a document which gave an overview of the application being sought and provided details of the conditions as agreed with the Environmental Health Team, WRS.

Mr. C. Lockett continued and stated that the application had been submitted due to the success of the annual beer festival in previous years, the beer festival had started in 2006. Initially the beer festival was organised under Temporary Event Notices (TENs). TENs restricted the number of people attending an event at any one time to a maximum of 499. In order to move forward and progress with this popular event, the organisers, Mr. Bartram and Mr. Morgan, were advised to submit a premises licence in order to hold future events, as the event was growing and attracted a larger number of visitors. The Recreation Committee had given written approval to the organisers for the beer festival to take place on the land.

Mr. C. Lockett explained that the area around the beer festival would be suitably fenced off with entry and exit via controlled points. Recorded music and comedy shows would form part of the three day event, which was proposed to take place between 8th and 10th September 2016.

The number of visitors to the event would be monitored by using counter clickers to ensure safety. Security Industry Authority (SIA) registered staff would be in attendance. As part of the beer festival, the organisers had offered other public houses in the village of Belbroughton, SIA registered door staff if required. The costs would be covered by the beer

festival organisers. To date none of the licensed premises holders had taken their offer up.

Visitors would be able to purchase tokens as part of a kit. The kit would include an official beer festival glass. Pre-paid tokens would be exchanged for beer, cider and perry and would be served in the official beer festival glasses. To his knowledge, as far as he was aware, there had been no specific incidents reported with alcohol being served in the official beer festival glasses and not plastic glasses.

In response to questions from Members and the concerns raised by local residents, Mr. C. Lockett highlighted that no issues had been reported to WRS with regard to previous beer festivals held on the site; and furthermore that West Mercia Police had raised no objections to the premises application.

Mr. C. Lockett wanted to reassure those who had raised representations and Members of the Sub-Committee that, both Mr. Bartram and Mr. Morgan, the beer festival organisers, had a vast wealth of knowledge and experience in the trade. Previous beer festivals, held over the last nine years, had been extremely well run. There had been no recorded incidents at the beer festival whereby the police had had to be called.

Mr. C. Lockett explained that correspondence had been received from Hereford & Worcestershire Fire and Rescue Service. A response was issued along with the risk assessment as requested.

Lengthy discussions had taken place with the Environmental Health Team, WRS, taking into consideration the concerns as detailed in the representations from the Environmental Health Team, WRS, and local residents. A copy of the conditions as agreed with the Environmental Health Team, WRS, and the applicant were included in the handout he had distributed earlier to all those present.

Over the nine years since the beer festival had operated, no concerns or issues had been raised by West Mercia Police or the Environmental Health Team, WRS.

He was informed that, the issues as detailed in the representations received from local residents with regard to an incident at the Talbot public house in the village, had occurred as a result of the manager not been in attendance and that those left in charge had been unable to deal with the situation. The information provided by the applicant, was that SIA registered staff, from the beer festival, had gone to the Talbot public house to help deal with the incident.

In response to questions from Members, Mr. C. Lockett stressed that a strict challenge 25 policy would be adhered to at all times. Bar staff would be trained accordingly and would be aware that they would be committing an offence if they sold alcohol to a person who was drunk. Mr. C. Lockett reiterated that the bar staff would refuse to serve any

further alcohol to anyone who appeared to be drunk. Customers with pre-paid tokens who were refused any further alcohol would receive a refund on their pre-paid tokens.

In response to questions from Members with regard to the representations received regard noise nuisance. Mr. C. Lockett explained that noise mitigation from outdoor live music during the event, had been raised as a concern by the Environmental Health Team, WRS, and that following discussions with the Environmental Health Team, WRS, noise mitigation would form part of the agreed risk assessment.

SIA registered staff would be in attendance at both gates, with SIA registered staff inside the fenced area walking around the beer festival.

In response to Mrs. P. Bridge, Mr. C. Lockett stated that although the application sought five events per year, only the annual beer festival was planned. The licensed area applied for did not include the two footpaths; therefore the footpaths would not be affected. The entrance and exit to the beer festival would be via Hartle Lane.

Mrs. P. Bridge asked why the villagers had not been consulted with and stated that the police had sorted out the incident at the Talbot public house and not the SIA registered staff as suggested earlier. Mr. C. Lockett explained that the premises application had been advertised in accordance with the Licensing Act 2003. With regard to the incident at the Talbot public house, he could only go by the information provided by the applicant.

At the invitation of the Chairman, Mrs. P. Bridge, who was in attendance on behalf of those who had submitted representations in objection to the application addressed the Sub-Committee.

Mrs. P. Bridge highlighted that she had been asked to speak on behalf of a lot of residents, some of whom were present at the Hearing. Belbroughton recreation ground was owned by the residents of Belbroughton, and as such was public property and a registered charity.

In respect of public safety, she informed the Sub-Committee that vehicle access would be along a private narrow single track lane, which was totally unsuitable for the size of vehicles required to carry the equipment for such a large event. Only 75% of the proposed licensed area was actually available on the site. The car park held forty vehicles and the proposed over-spill car park in the field could only be accessed via two public footpaths, one of which would be used by the vehicles carrying the equipment for the event.

Mrs. P. Bridge continued and stated that with regard to crime and disorder, residents were concerned that drunken customers would spill out from the beer festival into the nearby village. Residents were also concerned that the offer of SIA registered staff for other public houses in the village indicated that the organisers expected trouble.

Volunteers at the beer festival would be serving alcohol to customers. Therefore it would be difficult for these volunteers to refuse to serve alcohol to anyone who had overindulged and still had pre-paid tokens to use.

Mrs. P. Bridge further continued and highlighted that public nuisance was a big issue. Customers leaving the beer festival often urinated and vomited in the gardens of nearby residents and in the perimeter around the recreation ground. In 2015, both public footpaths were closed without the required permission.

With reference to protecting children from harm, Mrs P. Bridge queried how the beer festival organisers would ensure the safety of any children using the play area and skateboard park from customers who had drunk too much. Based on the incidents in 2015, residents did not think that the beer festival organisers realised their responsibilities.

At the invitation of the Chairman, Mr. G. Deeley, who was also in attendance on behalf of those who had submitted representations in objection to the application addressed the Sub-Committee.

Mr. G. Deeley explained that in addition to the concerns expressed by Mrs. P. Bridge, he was concerned with such a large event taking place on the recreation ground which was surrounded by residential properties. The beer festival had grown year on year, initially it was a small two night event held at the local school with no music.

The beer festival was now a three day event which attracted a very different clientele and the recreation area and small village were no longer suitable for such a large event. Residents felt it was dangerous to continue to hold the beer festival on the recreation ground due to the number of people attending and the number of large vehicles delivering equipment for the beer festival.

There was no public transport available in the village after 6:00 p.m. which meant that customers from the beer festival often wandered into the village to find taxis or continued to drink in the local village pubs. SIA registered staff may have been offered but they would not protect the village. There was evidence of broken glass and signs of people being sick after the beer festival.

With regard to the incident in 2015 at the Talbot public house, the information provided by the applicant to Mr. C. Locket did not appear to be the same information he had been provided with. It was a very serious incident and residents who had witnessed the incident had told him what had happened.

In response to questions from Members Mr. G. Deeley explained that originally the beer festival was a small event held at the local school to

raise funds for the school and church. It was taken over by a larger company and turned into a major three day event with live music.

In response to the Chairman, Mr. C. Lockett stated that an email had been received from the Parish Council, so they were aware of the premises application.

In response to the Chairman, Mrs. P. Bridge stressed that she used the recreation area daily, the setting up and dismantling of equipment for the beer festival took several days and caused a lot of disruption and nuisance. Once the beer festival had ended, there was evidence of broken glass and vomit in the area, which she had not personally experienced but her neighbours had.

At the invitation of the Chairman, Mr. C. Lockett was given the opportunity to sum up.

In summing up, Mr. C. Lockett stated that the application had been submitted in the correct manner. If what the residents had stated during the course of the Hearing had taken place then surely the police would have objected and attended the Hearing today if they had any concerns. The Environmental Health Team, WRS, had been asked if any complaints with regard to noise nuisance from the beer festival had been received and none had been received. The premises application had been made correctly in accordance with the Licensing Act 2003. He would therefore ask the Sub-Committee to approve the application.

In response to the Council's Legal Advisor, Mr. C. Lockett clarified that if a customer appeared to be under the influence of alcohol, the bar staff would refuse to serve them any further alcohol, their tokens would be taken off them and a refund provided. They would then be asked to leave the beer festival.

The Council's Legal Advisor informed Members that they should consider the four licensing objectives and the written and oral representations as presented during the course of the Hearing.

She would remind Members that no representations had been received from West Mercia Police and that the initial representations received from the Environmental Health Team, WRS, had been withdrawn following further discussions and specific conditions as agreed with the applicant. If the premises licence was granted and the risk assessment as provided by the applicant was not adhered to, the Environmental Health Team, WRS, would bring the matter before a future meeting of the Licensing Sub-Committee.

The Sub-Committee must only consider those matters directly relevant to the premises and that the incident that had taken place at the Talbot public house related to that premises and not the beer festival.

Members should base their decision on the information presented and the evidence provided. The Sub-Committee must consider only those matters directly relevant to the premises and must disregard reference to any matters that fell outside of the Licensing Act and the Sub-Committee's remit. Examples of such matters included the closure of footpaths and car parking.

In response to Mrs. P. Bridge, the Chairman and the Democratic Services Officer offered their apologies, as Mrs. P. Bridge and Mr. G. Deeley had not been provided with the opportunity to sum up, as detailed in the Hearing procedures.

In summing up, Mrs. P. Bridge stated that there appeared to be no details as to how the organisers would deal with the issues and concerns as raised by local residents. She would have expected that the conditions as agreed with the Environmental Health Team, WRS, to have been part of the premises licence conditions.

At a meeting of the Recreation Ground Committee on 14th July 2016, Mr. Bartram, one of the beer festival organisers, had given his word that the premises application was for the beer festival only, just the one planned event. But the conditions as agreed with the Environmental Health Team, WRS, detailed that events would be limited to no more than five events per calendar year. Did the beer festival organisers know what their premises application was asking for?

In summing up, Mr. G. Deeley, stated that he had listened to the advice as given by the Council's Legal Advisor that "Members must only consider those matters directly relevant to the premises and that the incident that had taken place at the Talbot public house related to that premises and not the beer festival". He would like to highlight that the culprit involved in the incident was identified as coming from the beer festival.

In response the Council's Legal Advisor stated that no specific information with regard the incident at the Talbot public house had been provided to Sub-Committee Members. Therefore Sub-Committee Members would need to determine what weight they gave, with regard the incident at the Talbot public house, when making their decision.

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 Licensing Technical Officer, Worcestershire Regulatory Services (WRS)
- The relevant written and oral representations of other parties who had submitted objections to the application.

- The application, oral representations and additional information presented at the Hearing by the Applicant's Representative, Mr C. Lockett.
- The relevant written representation in support of the application, as detailed at Appendix 4 to the report.

The Sub-Committee decided to grant the application for a Premises Licence relating to, Belbroughton Recreation Centre, The Recreation Community Centre, Hartle Lane, Belbroughton, Bromsgrove, Worcestershire, DY9 9TG, with the following additional conditions:

- The Environmental Health Team, WRS to be notified at least 14 days before the start of any event taking place which would host more than 400 patrons.
- A suitable and sufficient documented risk assessment covering Health and Safety and noise mitigation to be undertaken for events hosting more than 400 patrons. The risk assessment to be produced upon request to authorised officers of the responsible authorities.
- Events to be limited to a maximum of 5 per calendar year each lasting no more than 3 consecutive days.
- If the Designated Premises Supervisor (DPS) was not present at an event being held under the Premises Licence, contact details for an alternative nominated manager to be made available.

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

- The Sub-Committee noted and considered all the written and oral representations and additional information presented at the Hearing by the applicant's representative.
- The Sub-Committee noted that the Belbroughton Beer Festival had been held for the last nine years under Temporary Event Notices, although it was only in more recent years that it had been held at the premises for which the license was now sought.
- The Sub-Committee gave weight to the fact that no objections had been made when the previous TENs applications had been submitted. The Sub-Committee further considered it significant that there were no complaints or concerns recorded or held by Worcestershire Regulatory Services with regards to the premises
- The Sub-Committee was advised by Mrs P. Bridge and Mr. G. Deeley that an incident had occurred at a nearby licensed premise during the beer festival in 2015 and that this had resulted in the police attending. The Sub-Committee did not consider it was able to give weight to this evidence as it was at a location other than the applicant's site. Additionally the Sub-Committee was mindful that the

police had been made aware of the application under consideration and had not raised an objection.

- The Sub-Committee noted the matters raised in objection by the local residents with regards to anti-social behaviour such as drunkenness. Whilst the Sub-Committee was sympathetic to their concerns it did not find that there was relevant evidence sufficient to undermine the licensing objectives.
- The Sub-Committee was satisfied that the application had been correctly submitted and advertised in accordance with the Licensing Act 2003 and that the Responsible Authorities had been notified of the application.
- The Sub-Committee was advised by the applicant's representative that the police had been contacted and had confirmed that they had no objection to the application. It was considered also of note that the Parish Council had also been made aware of the application and again had not raised any concerns.
- Although initially an objection had been raised by the Environmental Health Team, WRS, this was subsequently withdrawn following an agreement by the applicant to the conditions as outlined above.
- The Sub-Committee considered the conditions to be reasonable in all the circumstances specifically the limitation on the number of events to be held.
- The Sub-Committee concluded that although the residents had raised a number of valid concerns that there was insufficient evidence to undermine the licensing objectives. The Sub-Committee was only able to have regard to the four licensing objectives and had disregarded representations which fell outside their jurisdiction.
- The Sub-Committee would however 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.
- that the Sub-Committee must consider only those matters directly relevant to the premises under consideration and only those matters that fall under the Licensing Sub-Committee's remit.

- In imposing conditions the Sub-Committee must ensure that they were 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 7.35 p.m.

Chairman