

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING SUB-COMMITTEE

THURSDAY, 26TH JANUARY 2017 AT 10.00 A.M.

PRESENT: Councillors J. M. L. A. Griffiths, L. J. Turner and S. A. Webb

Observers: Councillor C. M. McDonald

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

Also in attendance: Mr. D. McNally, applicant and Professor D. Hellawell, local resident.

11/16 **ELECTION OF CHAIRMAN FOR THE MEETING**

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

12/16 **APOLOGIES AND NOTIFICATION OF SUBSTITUTES**

No apologies for absence were received.

13/16 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

14/16 **PROCEDURE**

The Chairman opened the Hearing. Members of the Sub-Committee and officers present gave brief introductions to the applicant and to the 'other parties', so that no person who may be in a position to influence the Sub-Committee remained in the meeting room with the Sub-Committee whilst the Sub-Committee considered its decision at the conclusion of the Hearing.

The Chairman welcomed all those present and explained that Councillor C. M. McDonald was in attendance to observe the Hearing and would leave the meeting room at the end of the Hearing and would take no part when the Sub-Committee considered its decision.

At the request of the Chairman, the applicant and 'other parties' gave a brief introduction.

15/16

APPLICATION FOR A PREMISES LICENCE IN RESPECT OF ST JOHN'S WINE ROOMS, 12 ST JOHN STREET, BROMSGROVE, WORCESTERSHIRE, B61 8QY

The Sub-Committee was asked to consider an application for a Premises Licence, submitted by McColl Property Solutions Limited, in respect of St John's Wine Rooms, 12 St John Street, Bromsgrove, Worcestershire, B61 8QY.

The application was subject to a Hearing in light of a representation received from a member of the public. The basis of their representation was on the grounds of the Prevention of Public Nuisance.

All those present were informed that the Council's Legal Advisor had conducted a site visit, an unannounced visit to the site for which the application had been submitted.

The Technical Officer (Licensing) Worcestershire Regulatory Services (WRS), introduced the report and in doing so drew Member's attention to paragraph 2.4 in the report which detailed the hours being sought by the applicant for licensable activities, as follows:-

Activity	Days	From	To	Indoors/ Outdoors
Performance of Live Music	Everyday	20:00	00:00	Indoors
Playing of Recorded Music	Everyday	18:00	00:00	Both
Late Night Refreshment	Everyday	23:00	00:00	Both
Sale of Alcohol	Everyday	11:00	00:00	Both

Members were further informed that the representation received from a member of the public was detailed at Appendix 2 to the report. Officers were unable to mediate on this occasion. No representations had been received from any of the Responsible Authorities.

The Council's Legal Advisor sought clarification from the Technical Officer (Licensing) WRS for the hours sought for licensable activities. She was concerned that the hours as detailed at paragraph 2.4 in the report were different to the hours as submitted on the application form.

In response the Technical Officer (Licensing) WRS explained that an amended application form was submitted by the applicant following advice sought from WRS. The report showed the hours sought for licensable activities, as detailed on the amended application form. The Technical Officer (Licensing) WRS apologised and highlighted that the initial application form had been included with the agenda papers, hence the confusion.

The Council's Legal Advisor sought confirmation from the Technical Officer (Licensing), WRS that the hours sought for licensable activities, as detailed on the amended application form, had been advertised in accordance with legislation under the Licensing Act 2003.

With the agreement of the Chairman the meeting stood adjourned from 10:00 a.m. to 10:44 a.m. to enable officers to confirm that the hours sought for licensable activities, as detailed on the amended application form and at paragraph 2.4 in the report, were the hours that had been advertised in accordance with legislation under the Licensing Act 2003.

Following the resumption of the meeting, the Council's Legal Advisor informed Members that the hours sought for licensable activities, as detailed on the amended application form and at paragraph 2.4 in the report, were the hours advertised in accordance with legislation under the Licensing Act 2003.

All parties present to the Hearing were provided with a copy of the amended application form as received by WRS.

At the invitation of the Chairman, the applicant, Mr. David McNally then put forward his case in support of his application.

Mr. McNally thanked the Sub-Committee for their time. He explained that he owned the premises, known as St John's Wine Rooms, with three other family members. They were all proud 'Bromsgrovians', it was their home town and their children's home town. He had felt very lucky to have had the opportunity to purchase two premises in Bromsgrove, namely St John's Wine Rooms and the historic Steps House.

Previously he was employed as the Chief Executive at Norwich City Football Club. He had seen an opportunity to purchase and restore the property, namely St John's Wine Rooms, with a view to develop a prestigious restaurant and wine bar, offering simple good food with an extensive wine list and a small range of selected beers. He envisaged that the ratio would be approximately 70% food sales and 30% alcohol sales.

The venture was a large investment for all parties involved. They were keen to target the professional market, customers in their 30's and 40's. They wanted an establishment where you could purchase good food and wine, with ambient background music where customers could sit and chat.

He fully understood the concerns of the objector, but wanted to reassure the objector that he would be marketing the business to young professionals in their 30's and 40's. He would not be catering for customers who wanted to see live bands playing loud music. Mr. McNally empathised with the objector who had, in his objection, highlighted the previous issues he had experienced when the Wishing Well was a public house. Mr. McNally wanted to reassure all those present that there would be no loud music at the premises should the licence be granted.

Mr. McNally continued and said that in his opinion there was currently nowhere in Bromsgrove Town Centre where you could go to eat good food, choose from an extensive wine list and sit and converse with friends with no loud music playing. He would again reassure the objector that there would be no loud booming dance music emanating from the premises.

Mr. McNally informed the Sub-Committee that he would include any noise reduction measures where possible. The building had been soundproofed and a live test was carried out at the premises; he had stood outside the premises and on the roof terrace to check if there was any noise emanating from the premises. New doors and double glazed windows had also been fitted to the premises. He had also sought professional advice on an appropriate sound system.

All kinds of improvements had been made to the premises in order to comply with and to meet any regulations required. Advice had been sought from the fire service and the police, with additional advice with regard disabled access.

He was aware of the licensing objectives which were important to him. His business partner could not attend today's Hearing as he was at the local Pubwatch meeting, which was something they were keen to join. They would also adopt a Challenge 25 policy at the premises to ensure they had close control over the admission of people to the premises. Mr. McNally also reiterated that as an owner and manager, both he and his business partner would be Security Industry Authority (SIA) licence holders. At busy times, if required, they would ensure they had additional control measures in place.

Mr. McNally stated that he was obsessed with doing the right thing. He wanted to be seen as a reputable employer and good neighbour to residents and other businesses near to the premises.

He had researched the demographics of the area. He had looked at and would agree with the Bromsgrove District Council Plan, which stated 'Working together to build a district where people are proud to live and work'. This was something he wanted to help achieve. The new premises, if the licence was granted, would create approximately 30 new jobs.

In response to questions from the Sub-Committee, Mr. McNally explained that as stated earlier, he had sought advice regards soundproofing. Any specialist themed events held at the premises, for example, French or Italian evenings would be held inside the premises. As detailed on the amended application form any live music would be played indoors only. He wanted to reassure the Sub-Committee and the objector that any live music would not be loud booming dance music.

The lighting outside the premises would be subtle lighting in keeping with a Grade 2 listed building. The majority of lighting could be controlled by a dimmer switch.

At the invitation of the Chairman, Professor David Hellowell, who had submitted an objection on the grounds of Public Nuisance, addressed the Sub-Committee.

Professor Hellowell explained that his property and garden backed onto the premises for which the application was being sought. Having previously experienced issues when the Wishing Well was a public house, with loud noise emanating from the premises, he was obviously concerned about experiencing the same issues all over again. However, he felt somewhat reassured after listening to Mr. McNally and the thought he had given with regard to potential noise pollution from the premises. He was pleased to note that Mr. McNally had sought professional advice regards soundproofing and that, as stated by Mr. McNally, that he had taken into consideration the proximity of his neighbours when looking at potential noise and light pollution from the premises.

Professor Hellowell further explained that he was also reassured, as had been clarified during the course of the Hearing, that the application was being sought for live music indoors only.

Professor Hellowell continued and referred to other licensed premises that he had visited in the Town Centre, where loud music could be heard emanating from those premises. This did worry him as the licensed premises were in the middle of a pedestrianised area in the Town Centre.

He was therefore concerned about any potential noise nuisance from speakers situated outside the premises or the playing of recorded music outside the premises on the roof terrace. He would question what was perceived as an acceptable level for recorded music to be played at, since noise could travel.

Professor Hellowell informed the Sub-Committee that the problems he had experienced when the Wishing Well was a public house, was loud noise emanating from the premises due to windows and doors being left open after midnight and beyond. He would like some reassurance and would therefore ask the Sub-Committee to consider, should the licence be granted, that a condition be included on the licence whereby windows and doors remained closed after a specific time in the evening. The area was a designated conservation area and he would ask that a reasonable level of noise be maintained outside on the roof terrace.

The Chairman explained to Professor Hellowell that although she sympathised with the issues he had experienced when the Wishing Well was a public house, the premises application being considered was for

St John's Wine Rooms and that any previous issues experienced could not be taken into account.

The Council's Legal Advisor reiterated this and advised the Sub-Committee to disregard any previous issues experienced by Professor Hellowell from the Wishing Well when it was a public house.

The Council's Legal advisor highlighted to all those present the hours and activities being sought by the applicant for licensable activities, as detailed at paragraph 2.4 in the report and on the amended application form, as circulated to all those present at the beginning of the Hearing.

The Council's Legal Advisor informed Mr. McNally that he was under no obligation to respond or accept the condition suggested by Professor Hellowell, namely, that windows and doors at the premises to be closed at a specified time.

In summing up, Mr. McNally stated that he had taken into account the licensing objectives. He wanted to be a responsible employer and good neighbour. The business was yet to open so he felt it was unfair to compare the business with the previous Wishing Well public house. He was also concerned regards the condition, as suggested by Professor Hellowell, regards windows and doors being closed at a specified time. Busy staff could easily forget to close every window.

Mr. McNally thanked the Sub-Committee for their time. He hoped he had explained how the business would operate and the specific clientele they were hoping to attract. Whilst he understood Professor Hellowell's concerns regards potential noise nuisance, due to his past experiences when the Wishing Well was a public house, he would emphasise that these were past issues with those particular premises. Both he and his business partners had already invested a substantial amount into the premises. They were keen and very proud to be able to have had the opportunity of opening a prestigious business in Bromsgrove.

Mr. McNally asked the Sub-Committee to consider the application before them for a new business and would request that no conditions were included on the licence should it be granted.

In summing up, Professor Hellowell also expressed his thanks to the Sub-Committee for what he considered to be a fair Hearing and would ask the Sub-Committee to consider his suggested condition in respect of windows and doors being closed at a specific time.

Professor Hellowell took the opportunity to thank the Council's Legal Advisor for seeking clarification regards the hours and licensable activities being sought by the applicant and for confirming that this was the information as advertised in accordance with legislation under the Licensing Act 2003.

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 any of the responsible authorities.

Members should disregard any issues which fell outside of the Licensing Sub-Committee's jurisdiction, namely, the outdoor smoking area and lighting. The Sub-Committee must only consider those matters directly relevant to the premises.

In making their decision, whilst Members could be sympathetic to the concerns raised by Professor Hellawell in his written and oral representation made during the course of the Hearing; Members should disregard any reference to the past issues experienced by Professor Hellawell in respect of the Wishing Well when it was a public house and issues with other licensed premises within the Town Centre regarding noise nuisance.

The Sub-Committee should only take account of evidence that could be directly attributed to these particular premises. As this premises had yet to open it was difficult to attribute the concerns raised by Professor Hellawell to the sale of alcohol at the premises.

Having had regard to:

- The licensing objectives set out on 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 application and oral representations made at the Hearing by the applicant, Mr. David McNally.
- The written representation and oral representations made at the Hearing by Professor D. Hellawell, objector.

The Sub-Committee decided to grant the application for a premises licence relating to St John's Wine Rooms, 12 St John Street, Bromsgrove, Worcestershire, B61 8QY in the terms as set out in the Operating Schedule.

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

- The Sub-Committee noted and considered the written and oral representations made by the applicant, Mr. McNally.
- The Sub-Committee noted the applicant's response to the objections raised and were satisfied that the concerns were taken seriously.

- The Sub-Committee noted the significant investment made by the applicant and was impressed by the proposed business plan and procedures which would be put in place to ensure the promotion of the licensing objectives.
- The Sub-Committee noted the applicant's awareness of the area and the specific clientele group that the business was hoping to attract.
- The Sub-Committee considered that the methods by which the applicant controls the sale of alcohol, as detailed in their application, together with the other standard operating procedures, were such that they had every confidence that the applicant was a responsible person that would make every effort to promote the four licensing objectives.
- In considering the information submitted by the other parties, the Sub-Committee noted that no objections had been received from any of the responsible authorities.
- The Sub-Committee noted the objection raised by Professor Hellawell and was sympathetic to his concerns specifically with regards to the level of noise. The Sub-Committee was however unable to give weight to the observations relating to other licensed premises as it was only able to take account of evidence that could be directly attributed to these particular premises. As this premises had yet to open it was difficult to attribute the concerns raised to the licensable activities at this premises.
- The Sub-Committee was also mindful of the review process that applies to any premises that failed to promote the licensing objectives and the ability of any party to bring the licence before the Sub-Committee should evidence be obtained to prove that the premises was failing to meet its obligations.

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 four licensing objectives.
- 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 jurisdiction.
- If having granted the premises licence and problems did occur then the licence could be brought back before a Sub-Committee to seek a review of the decision.

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 12.02 p.m.

Chairman