

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING SUB-COMMITTEE

29TH MARCH 2017 AT 6.13 P.M.

PRESENT: Councillors R. L. Dent (Chairman), C. J. Spencer, S. P. Shannon and P.L. Thomas

Officers: Mrs. V. Brown, Mr. S. Alom and Ms. A. Scarce

Also in attendance: Mr. M. D. Batham, Applicant, Ms. S. Clover, Applicant's Representative, Mr. W. Warburton, Mr A. Dickens, and Mr. D. Porter, local residents.

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

RESOLVED that Councillor R.L. Dent be appointed Chairman of the Sub-Committee for the meeting.

The Chairman apologised to all those present for the late commencement of the meeting.

17/16 **TO RECEIVE APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES**

No apologies for absence were received.

18/16 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

19/16 **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.

The Chairman welcomed all those present and explained that Councillor P. Thomas was in attendance to observe the Hearing.

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

20/16

**APPLICATION FOR A PREMISES LICENCE IN RESPECT OF
PALLADIUM HOUSE, 139-141 WORCESTER ROAD, HAGLEY,
STOURBRIDGE, WORCESTERSHIRE DY9 0NW**

The Sub-Committee was asked to consider an application for a Premises Licence, submitted by Batham (Delph) Limited, in respect of Palladium House, 139-141 Worcester Road, Hagley, Stourbridge, Worcestershire, DY9 0NW.

The application was subject to a Hearing in light of representations received from members of the public. The basis of their representations was on the grounds of Crime and Disorder, Public Nuisance and Public safety.

It was confirmed that two Members of the Sub-Committee 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 so doing drew Members' attention to paragraph 2.4 of the report which detailed the hours being sought by the applicant for licensable activities, as follows:-

Activity	Days	From	To	Indoors/ Outdoors
Performance of Dance	Saturday	11:00	00:00	Indoors
Performance of Dance	Sunday	12:00	22:30	Indoors
Performance of Dance	Monday to Friday	11:00	23:00	Indoors
Performance of Live Music	Saturday	11:00	00:00	Indoors
Performance of Live Music	Sunday	12:00	22:30	Indoors
Performance of Live Music	Monday to Friday	11:00	23:00	Indoors
Playing of Recorded Music	Saturday	11:00	00:00	Indoors
Playing of Recorded Music	Sunday	12:00	22:30	Indoors
Playing of Recorded Music	Monday to Friday	11:00	23:00	Indoors
Sale of Alcohol	Saturday	11:00	00:00	
Sale of Alcohol	Sunday	12:00	22:30	
Sale of Alcohol	Monday to Friday	11:00	23:00	

Members were further informed that 13 representations have been received from Members of the public as 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.

At the invitation of the Chairman, the applicant's Legal Representative, Ms. S. Clover then put forward her case in support of the application.

Ms. Clover thanked the Sub-Committee for its time and explained that she was here to make representations on behalf of Batham (Delph)

Limited and Mr. M.D. Batham. It was confirmed that this was a new premises application, which had not been licensed before as the building was previously offices and planning permission had recently been agreed in respect of a change of use. Whilst it was accepted that under current legislation the two applications needed to be considered separately, it was highlighted that the issue of parking and deliveries to the premises had been addressed within the planning consent.

Batham (Delph) Limited was a family run business which was established in 1877, being in existence for five generations and was an experienced operator currently run by two brothers. They had nine premises throughout the West Midlands, all of which were traditional, family run pubs and were overseen and managed by experienced publican brothers, with other members of the family working in the business. Bathams operated traditional pubs and prided itself as being part of the community which included undertaking events in the past with local residents to raise money for charity. The new premises would be in keeping with the other Bathams' premises. The Sub-Committee were reminded that no representations had been received from the Responsible Authorities and that the applicant had agreed some conditions with West Mercia Police during the mediation period.

In order to mitigate residents' concerns it was highlighted that the applicant was happy to amend the Operating Schedule to a Challenge 25 Policy in place of the Challenge 21 Policy as this was in place at its other premises. IT was also highlighted that the manager would be living in accommodation provided above the premises. Mr. Batham, the Designated Premises Supervisor, also commented that he lived within a 2 mile radius of the premises and was willing to provide residents with his contact details and the assurance that he would address any complaints directly wherever possible. The applicant also explained that the playing of live music or holding celebrations would be minimal (perhaps four or five times a year) and would be restricted to inside the premises. The music played on a daily basis would be restricted to background music and would not be heard outside of the building. There would be a ventilation system installed which would mean doors and windows would not be opened to allow sound to travel outside of the building.

Following the presentation of the case in support of the application Ms. Clover and Mr. Batham responded to a number of points of clarification from Members of the Sub-Committee.

At the invitation of the Chairman, Mr. Warburton, Mr. Dickens and Mr. Porter, who had all submitted an objection on the grounds of Crime and Disorder, Public Nuisance and Public safety, addressed the Sub-Committee.

Mr. Warburton raised concerns in respect of, why if the premises would be run as a "public house" there was a need for the extended license and whether there would be a sports screen at the premises. Mr.

Batham responded that special events would be limited in number as previously stated and that there would be a screen within the premises, but this would not extend to the outside.

Mr. Porter questioned the noise from outside of the premises and the extent to which the glass shield would prevent noise from being heard across the road and how any noise disturbance could be controlled in a professional manner. Mr. Batham reiterated that he was happy for residents who were concerned to have his contact details and he would arrange for suitable signage to be displayed to remind customers. There would also be a manager living on the premises who residents could speak to if necessary.

Mr. Dickens believed that controlling the outside area was key together with keeping the music inside the premises. Mr. Batham confirmed that there would be no amplified music on a regular basis and the doors and windows would not be opened. Residents were assured that there would be a fully trained manager on site at all times.

Whilst the three residents were reassured by the representations made during the Hearing concerns remained in respect of the impact a further licensed premises would have on the area in light of the problems which were already faced by them on a regular basis. The residents advised that there had been a complete change of atmosphere in the village as a result of this and their aim was to ensure it was restored to how it used to be and to ensure the safety of those residents affected and were not convinced that there was any way of applying and enforcing the regulations and conditions to a licence.

The Chairman explained to the residents that although she sympathised with the issues that had been experienced with other licensed premises in the vicinity and whilst sympathetic the Sub-Committee was unable to give any weight to representation relating to any other premises when making its decision. It was also clarified that although planning permission had been granted, that of a licence had not been.

The applicant and his representative were given the opportunity to sum up and in so doing Ms. Clover reiterated the position in respect of the planning permission and granting of a licence, together with the review process which could be applied should any licence and conditions attached to it not be adhered to. It was highlighted that whilst there were a number of objections to the proposed premises equally there had been support, particularly on social media and therefore the Sub-Committee needed to consider the application as a whole before making its decision.

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 reminded Members that no representations had been received from any of the responsible authorities and that Members should address their

minds only to those matters which were directly related to the applicant's premises and disregard any reference to the issues experienced in respect of other licensed premises in the vicinity.

The Chairman advised that the Members would adjourn to consider the application and written notification of the decision would be forwarded to the parties within five working days.

The meeting closed at 7.38 p.m.

Chairman

The Decision of the Sub-Committee was as follows:

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's legal representative and Mr. Matthew Batham.
- The written representation and in addition the oral representations made at the Hearing by Mr. Warburton, Mr. Dickens and Mr. Porter the objectors.

The Sub-Committee has decided to grant the application for a premises licence relating to Palladium House, 139-141 Worcester Road, Hagley, Stourbridge Worcestershire in the following terms:

1. As set out in the Operating Schedule with the following amendment, a Challenge 25 Policy in place of the Challenge 21 Policy.

and

2. The conditions as set out and submitted by the Police and agreed with the applicant.

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

- The Sub-Committee noted and considered the written and oral representations made on behalf of the applicant. The Sub-Committee was impressed with the intended business plan and considered that the applicant had given careful consideration to the location of the premises and the concerns raised by those who lived nearby. The Sub-Committee considered the fact that this is a very well

established family business with a proven record of good management to be significant in determining the likelihood of the licensing objections being met.

- The Sub-Committee noted the applicant's response to the objections raised and was satisfied that the concerns were taken seriously and that there was a genuine intention to work in harmony with those in the surrounding area. The Sub-Committee was further persuaded by the fact the Manager would be living on site and that Mr Batham, the Designated Premises Supervisor, resided a short distance away. The willingness of the applicant to make available his contact details and the assurance that he would address any complaints directly gave the Sub-Committee confidence that these premises would be well run and would operate within the spirit of the Licensing Act 2003.
- The Sub-Committee also considered it significant that having heard directly from the applicant that the three residents had felt "reassured" by the representations made during the hearing.
- 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. Furthermore the Sub-Committee gave significant weight to the conditions as proposed by the police who would have given due consideration to the application and the location of the premises. The Sub-Committee was entirely satisfied that the police had no concerns regarding the licensing of this premises.
- The Sub-Committee noted the concerns raised by local residents with regards to other licensed premises in the vicinity and whilst sympathetic the Sub-Committee was unable to give any weight to representations relating to any other premises.
- The Sub-Committee was also mindful of the review process that is available to anyone who is able to provide evidence that a licensed premises has failed to promote the licensing objectives. Whilst the Sub-Committee was confident that based on the representations submitted that this was unlikely to be necessary for this premises, it was nonetheless an available option should the operation of this premises fall short of the licensing objectives.

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.
- 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.

- The Sub-Committee should disregard references made to other licensed premises and not be influenced by any representations or comments that were not directly attributed to the applicant's premises.

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 is received by the Applicant.