

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING SUB-COMMITTEE

TUESDAY, 30TH APRIL 2019, AT 5.42 P.M.

PRESENT: Councillors R. L. Dent, S. A. Webb and L. J. Turner

Officers: Mrs. V. Brown, Mr. G. Rowberry, Ms. T. Rashid (observing) and Mrs. P. Ross

Also in attendance: Ms. K. Jones, Mr. M. Knight, Ms. R. Cooper and Mr. P. Richards, local residents.

The Hearing commenced at 5:42 p.m. as the Chairman was notified prior to the commencement of the Hearing that one of the registered speakers, speaking in objection to the application, had not arrived. Sub-Committee Members agreed to delay the start of the Hearing for a short period of time.

6/18 **ELECTION OF CHAIRMAN FOR THE MEETING**

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

7/18 **APOLOGIES FOR ABSENCE**

No apologies for absence were received.

8/18 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

9/18 **APPLICATION FOR A PREMISES LICENCE IN RESPECT OF THE RED AND WHITE POLISH BISTRO LIMITED, 37 STOKE ROAD, BROMSGROVE, WORCESTERSHIRE, B60 3EN**

The Sub-Committee considered an application for a Premises Licence, submitted by Mr. Darren Griggs, in respect of the Red and White Polish Bistro Limited, 37 Stoke Road, Bromsgrove, Worcestershire, B60 3EN.

The application was subject to a Hearing in light of 19 representations received from members of the public. The basis of their representations was on the grounds of noise nuisance, public nuisance, light pollution, potential increase in litter and possible anti-social behaviour.

It was confirmed that two Members of the Sub-Committee, Councillors R. L. Dent and S. A. Webb had conducted a site visit, an unannounced visit to the site for which the application had been submitted.

At the invitation of the Chairman, all parties present provided a brief introduction.

The Chairman asked Mr. Griggs if he was aware that he could have had legal representation. Mr. Griggs confirmed that he had been made aware and was happy for the Hearing to continue.

The Technical Officer (Licensing) Worcestershire Regulatory Services (WRS), introduced the report and in doing so 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
Playing of Recorded Everyday	Everyday	09:00	23:00	Indoors
Sale of Alcohol	Everyday	09:00	23:00	

The Technical Officer (Licensing) WRS, clarified to all those present that under the Live Music Act 2012, the playing of recorded music was deregulated, therefore premises selling alcohol no longer required a licence to play recorded music between 08:00 a.m. and 11:00 p.m.

Members were further informed that 19 representations have been received from members of the public as detailed at Appendix 2 to the report. No representations had been received from any of the Responsible Authorities.

In response to the 'other persons' and with the agreement of the Chairman, the Technical Officer (Licensing) WRS, listed the statutory responsible authorities that would have been consulted with.

In response to the 'other persons' and with the agreement of the Chairman, the Council's Legal Advisor stated that the applicant would have to carry out a fire risk assessment at the premises. Sub-Committee Members were being asked to consider the premises licence application in accordance with the four licensing objectives:-

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

The 'other persons' expressed their annoyance that due to recent changes in legislation, planning permission had been bypassed, as

planning permission was not required for a temporary change of use for a period of two years. Therefore they had been unable to raise any planning concerns or objections.

The Council's Legal Advisor informed the 'other persons' that Members could only have regard to the representations that promoted the four licensing objectives; and evidence relevant to those objections.

The Sub-Committee must consider only those matters directly relevant to the premises under consideration and must disregard reference to any matters that fell outside of the Licensing Act, namely planning and car parking.

At the invitation of the Chairman, the Technical Officer (Licensing) WRS, commented that the Planning Department would have been consulted with on the premises licence application.

At the invitation of the Chairman, Mr. D. Griggs and his wife Mrs. D. Griggs then put forward their case in support of the application.

Mr. Griggs stated that he felt that people had the wrong idea as to how the premises would operate; it would be a family restaurant with approximately 40 covers and light background music.

He had sought guidance from the Licensing Officer, WRS and was advised to be all encompassing and to apply for the hours as detailed on his application form. The premises would not be open during the hours applied for; it would only be open as follows:-

Lunch	2:00pm – 5:00pm
Evening	7:00pm to 11:00pm

Mr. Griggs continued and in response to the concerns raised with regard to noise nuisance, Mr. Griggs showed all those present the small speakers that would be used. The playing of recorded music would be background music only and not loud music, he did not want to upset residents.

Mr. Griggs further stated that with regard to the concerns raised in respect of car parking. He was aware that signage was now in place highlighting that parking was for residents only. He would endeavour to redirect customers and ask them to park at the railway station or at the Travel Lodge, he would also look at reimbursing customer's car parking charges.

Mr. Griggs commented that he understood that when the premises was a convenience store, youths had hung around outside. He was also of the opinion that there would be less traffic, as customers would be visiting the premises to eat, not just quickly stopping to pick something up, as they would have done when it was a convenience store.

Mr. Griggs highlighted that he had worked in retail for a number of years and was fully aware of the licensing objectives and his application detailed how he intended to promote those objectives. He would reassure residents that alcohol would only be served with food; the premises license was for a bistro and not for a club or bar type of establishment.

At the invitation of the Chairman, Mrs. Griggs informed the Committee that she was from Poland and had wanted to introduce traditional Polish food into the community. She felt that the idea behind the opening of a bistro had been misunderstood. They wanted to create a lovely family friendly restaurant, serving approximately 40 covers, as explained by her husband. The premises were quite small; they would have a small menu and a set menu on Sundays for family dining; with alcohol being served with food only. There would be no loud music, only background music, they would be happy to keep windows and doors closed. There was no designated smoking area.

Mrs. Griggs continued and informed the Committee that they lived in the Bromsgrove area and had found Aston Fields to be quite a trendy area; it was not their intention to upset any of the local residents.

Mr. and Mrs. Griggs continued and explained that whilst working at the premises they had spoken with quite a few people and had been happy to show people around. They had also knocked on a few doors to explain to local residents what they were doing and what sort of premise they were looking to open.

Mr. Griggs highlighted that the bistro would operate a booking system, so people would not be sitting around drinking waiting for a table to become available.

In response to the 'other persons' and with the agreement of the Chairman, the Council's Legal Advisor stated that smoking was not included in the licensing objectives. Sub-Committee Members were bound by legislation and to enforce a 'smoking' condition was out of their remit.

At the invitation of the Chairman and with the agreement of Ms. K. Jones, Mr. M. Knight addressed the Committee, briefly detailing Ms. Jones' objections as detailed at Appendix 2 to the report.

The Democratic Services Officer drew Members' attention to the relevant page in Appendix 2 to the report for each of the objectors addressing the Sub-Committee.

At the invitation of the Chairman, Mr. M. Knight, Ms. R. Cooper and Mr. P. Richards addressed the Sub-Committee in objection to the application.

Ms. Cooper explained to the Sub-Committee that her house was overlooked by the premises and that she would feel quite vulnerable. She was worried about noise coming from customers sitting in the premises courtyard.

Mr. M. Knight explained to the Sub-Committee that the area was already populated with licensed premises and eateries, you only had to look at the town centre to see problems causing crime and disorder and public nuisance. Residents in South Road had already suffered anti-social behaviour. There would be an increase in traffic at the premises, which in his opinion, would be a public safety issue and the protection of children from harm. There were already issues with car parking during the evening and if the premises were licensed there could possibly be 40 customers; with an increase in noise levels. He did not want any added noise or stress.

Mr. P. Richards provided the Sub-Committee with a photograph of the "Application for a Premises Licence" notice that had been displayed at the premises. Mr. P. Richards drew Members' attention to the photograph and highlighted that the premises had single glazing windows, which had resulted in condensation on the windows, therefore the notice was not very clear and he had found it difficult to read.

Mr. P. Richards continued and stated that he was disappointed that due to recent changes in planning legislation the premises did not have to go through any planning permission for change of use. 40 covers at the premises would increase traffic therefore an increase in danger for residents. People already parked on pavements and people using the train station parked on the road in order to avoid paying for car parking; all of this made walking on the pavements and driving quite hazardous.

At this stage in the Hearing, the Chairman took the opportunity to remind the 'other persons' that, as stated by the Council's Legal Advisor, planning and car parking issues were outside of the Sub-Committee's remit. Whilst Sub-Committee Members were sympathetic to the concerns raised, Members would disregard any matters that fell outside of their remit.

Following a slight disruption to the Hearing due to conversations and a series of issues being raised by the 'other persons'; the Council's Legal Advisor reiterated that Members were being asked to consider an application for a premises licence which covered the sale of alcohol and that any objections raised had to be relevant to the four licensing objectives.

The Council's Legal Advisor informed the 'other persons' that any concerns they had with regard to planning and car parking, she would suggest that they drew such matters to the attention of their Ward Member.

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 application and oral representations made at the Hearing by the Applicant, Mr Darren Griggs and Mrs Dominic Griggs.
- The written representations and oral representations made at the Hearing by Mr P. Richards, Ms R. Cooper and Mr M. Knight. Mr. M. Knight also spoke on behalf of Ms K. Jones who had to leave the Hearing early due to work commitments.

RESOLVED that the application for a premises licence in respect of the Red and White Polish Bistro Limited, 37 Stoke Road, Bromsgrove, Worcestershire, B60 3EN, be granted, in the terms as set out in the Operating Schedule; with an additional condition to be added to the current licence requiring that signage be placed prominently at the premises, reminding customers that they are in a residential area and to keep noise levels to a minimum, by leaving in a quiet, orderly and respectful manner.

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

- The Sub-Committee considered both the written and oral representations submitted by the applicant, Mr Griggs and his wife.
- The licensable activity for consideration was for the sale of alcohol only, as the playing of recorded music up until 11:00 pm was no longer regulated under the Licensing Act 2003.
- Members considered the nature of the business and that it was intended that the premises would open Thursday to Sunday for lunchtime meals and evening dining.
- Members had considerable regard to the condition on the Operating Schedule that alcohol would only be served with food. It was made clear by the applicant that there was no facility for members of the public to purchase alcohol in any other circumstance; it was never intended that this would be a 'bar' type establishment.
- The Sub-Committee considered that the methods by which the applicant controls the sale of alcohol, as detailed in their application, together with the standard operating procedures, were such that they had every confidence that the applicant would be responsible licensee who would make every effort to promote the licensing objectives.
- The Sub-Committee were impressed with the level of consideration the applicant had given to the licensing objectives and also that this

would be a business operated and run on a daily basis by the applicant and his wife.

- In considering the objections to the application the Sub-Committee noted that no representations had been received from any of the responsible authorities.
- The Sub-Committee noted the written and oral objections raised by 'other persons'. Members were unable to give any weight to matters that did not directly relate to the licensable activity namely the sale of alcohol. The Sub Committee was required to disregard matters that did not fall within the Licensing Authority's remit.
- The Sub-Committee appreciated that those living in close proximity to the premises were concerned about the impact this business may have on the nearby residents. However, Members considered that the representations made were primarily objections to the operation of the business in any form and not specific to the sale of alcohol.
- The Sub-Committee would remind all parties of the review process that applies to any premises that failed to promote the licensing objectives. Any party was able to request a review of a licence where evidence indicated that the licensing objectives were not being met.

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 fell under the Licensing Sub-Committee's jurisdiction.
- The Sub Committee may not modify the conditions or reject the whole or part of the application merely because it considered it desirable to do so. Conditions must be appropriate in order to promote the licensing objectives.
- The review process was available to any party if evidence was established to indicate that the licensing objectives were not being met.

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 7.00 p.m.

Chairman