

BROMSGROVE DISTRICT COUNCIL

VIRTUAL MEETING OF THE LICENSING SUB-COMMITTEE

WEDNESDAY, 12TH AUGUST 2020, AT 6.00 P.M.

PRESENT: Councillors H. J. Jones, M. Glass and M. A. Sherrey

RESERVE MEMBER: Councillor P. J. Whittaker

Also in attendance: Police Sergeant R. Field, West Mercia Police, Mr. R. Edge, Licence Leader Limited, on behalf of the Applicant, Mr. T. Pidgeon and Ms. J. Hughes, local residents.

Officers: Mrs. V. Brown, Mr. P. Morrish, Ms. S. Deeley, Mrs. P. Ross and Ms. J. Bayley

1/20 **ELECTION OF CHAIRMAN FOR THE MEETING**

RESOLVED that Councillor H. J. Jones be appointed Chairman of the Sub-Committee for the meeting.

2/20 **TO RECEIVE APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES**

An apology for absence was received from Councillor H. D. N. Rone-Clarke. It was noted that Councillor M. Glass attended as a Member of the Sub-Committee with Councillor P. J. Whittaker in attendance as the Reserve Member.

3/20 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

4/20 **APPLICATION FOR A PREMISES LICENCE IN RESPECT OF TRANQUIL BAR LIMITED, 1 BEAR HILL, ALVECHURCH, WORCESTERSHIRE, B48 7JX**

The Chairman welcomed everyone to the virtual meeting and introduced all parties present.

The Chairman announced that all Members of the Sub-Committee had conducted a site visit, to the site for which the application had been submitted.

The Sub-Committee then considered an application for a Premises Licence, submitted by Ervin Sadria, in respect of Tranquil Bar, Limited, 1 Bear Hill, Alvechurch, Worcestershire, B48 7JX.

The application was subject to a Hearing in light of 39 representations received from members of the public. The basis of their representations was on the grounds of noise pollution, public nuisance, an increase in litter, lack of parking, no public transport, increased traffic, anti-social behaviour and concerns relating to the planning application.

One representation in support of the application had been received.

West Mercia Police, as a Responsible Authority, had also submitted information in support of the application.

The Technical Officer (Licensing) Worcestershire Regulatory Services (WRS), introduced the report and in doing so highlighted that, during the application process the applicant had agreed with West Mercia Police to reduce the hours of licensable activities and had offered an additional condition; that the outside area would close at 22:00 hours. Members' attention was drawn to Appendix 2, page 35 of the main agenda report, which detailed the revised hours of licensable activities being sought by the applicant, as follows: -

Sale of Alcohol

Sunday to Thursday	11:30 to 23:00
Friday and Saturday	11:30 to 00:00 (midnight)

Late Night Refreshment

Friday and Saturday only	23:00 to 00:00 (midnight)
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Regulated Entertainment – Live Music, Recorded Music, Anything of a similar description

Friday and Saturday only	23:00 to 00:00 (midnight)
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Members were further advised that as a result of the Live Music Act 2012 and other deregulatory measures, no authorisation was required under the Licensing Act 2003 for live or recorded music between 8am and 11pm at the premises licensed for the sale of alcohol for consumption on that premises, provided that the audience did not exceed 500 people.

The Technical Officer (Licensing) WRS, further drew Members' attention to the additional condition offered by the applicant, that the outside smoking area would be closed at 22:00 hours. Members were reminded that smoking areas were not a licensable activity.

The Technical Officer (Licensing) also highlighted that some of the representations received had referred to parking issues and planning concerns. Members were reminded that these issues were not considered valid representations under the four licensing objectives.

The Chairman then invited Mr. R. Edge, Licence Leader Limited, the applicant's representative, to put forward the case in support of the application.

Mr. Edge explained to Members that he had attempted mediation with those who had raised objections to the application. Additionally, he had also had extensive meetings with Police Sergeant (PS) R. Field and Mr. P. Morrish, Technical Officer (Licensing), Worcestershire Regulatory Services.

Mr. Edge continued and stated that the building was currently being refurbished to an exceptionally high standard at great expense and would be in keeping with other buildings in the area. The premises would operate as a restaurant / bar. The ground floor had been split into two premises, each with a separate entrance, with the possibility of bringing back the Post Office to the second part of the premises.

Based on the information within the application and taking into account the four licensing objectives, the amended hours and the conditions agreed with PS Field; Mr. Edge highlighted that the police were fully supportive of the granting of a premises licence. The police had carried out extensive investigations, which had included a site visit and had negotiated extra conditions and a reduction in operating hours on the licence, as detailed at Appendix 2, on page 35 of the main agenda report.

Mr. Edge further highlighted that none of the other Responsible Authorities has raised any objections to the application.

Mr. Edge then referred to the additional documentation, as detailed in the Supplementary agenda pack: -

- Operations and staff training manual
- Challenge 25
- DPS (Designated Premises Supervisor) Authorisations
- Refusals log
- Covid-19 Risk Assessment

Mr. Edge further commented that the premises should not be pre-judged before it had opened. In accordance with Sections 8.41 and 8.42 of the Section 182 guidance, the application had taken into consideration the local community and the steps required to demonstrate a strong operating schedule, with very reasonable hours.

The applicant intended to run the business in a very professional manner and wanted to make the business a success without comprising the four licensing objectives.

In response to the Chairman regarding people migrating to the premises once other licensed premises had closed; Mr. Edge explained that the additional opening hours were for diners who chose to dine late. The

premises would operate as a restaurant / bar, serving customers who were dining. However, to reassure Members, he was willing to offer an additional condition, on behalf of the applicant, in respect of entry times as follows: -

'That the last entry time will be 22.30 hours Sunday to Thursday and 23.00 hours Friday and Saturday'.

Mr. Edge further reiterated that, as requested by PS Field, the outside smoking area would be closed at 22:00 hours.

In response to questions from Members with regard to the number of customers the premises would hold, fire precautions and fire escapes; the Council's Legal Advisor reminded Sub-Committee Members that this was the responsibility of different external agencies who would conduct any necessary risk assessments at the premises, it did not fall under the remit of Sub-Committee Members.

In response to further questions from Members with regard to noise nuisance, Mr. Edge clarified that, as detailed in the application, that all doors and windows would remain closed when recorded music was played, other than for access and egress; and that no rubbish, including bottles, would be moved or placed in outside areas between the hours of 22:00 hours and 08:00 hours.

At the invitation of the Chairman, the Responsible Authorities, namely PS Field, West Mercia Police addressed Members in support of the application.

PS Field informed Members that part of his role was licensing and that as a Responsible Authority, West Mercia Police had received the application as part of the consultation process. PS Field stated that he had read the representations received in objection to the application. The objections had referred to crime and disorder and public nuisance. He had found Mr. Edge to be very forthcoming and agreeable to the requests he had made in respect of reducing the operating hours and closing the smoking area at 22:00 hours in order to address some of the concerns raised.

PS Field continued and stated that the applicant had gone above and beyond the requirements of the Council's own Statement of Licensing Policy. The lack of public transport, parking and change of use of the building were not licensing concerns.

He supported the application. The applicant and the applicant's agent had sought advice from West Mercia Police and in his opinion the applicant would operate a good business that would promote the four licensing objectives. The business would also help regenerate the area. He would ask Members to note that public houses and clubs were licensed until midnight.

At the invitation of the Chairman, Mr. T. Pidgeon addressed the Sub-Committee in objection to the application.

Mr. Pidgeon thanked Members for the opportunity to address the Sub-Committee in order to present collated objections on behalf of the local community. The collective objections were from a group of local residents.

Mr. Pidgeon informed Members that the objections they would like the Sub-Committee to consider, were based on the failure of the applicant to promote the licensing objectives as given under the Licensing Act 2003.

With regard to the prevention of Crime and Disorder, the lack of late night transportation in the village, the location of the building and lack of a taxi rank, would mean people exiting the premises late at night would be forced to congregate close to or on main road awaiting collection. In a densely populated residential area, there was the potential for damage to both persons and property in the direct vicinity.

The lack of public transport meant that patrons were likely to have to travel by car and may be tempted to do so when intoxicated.

No provision had been made for parking or dropping off customers. Parking in the area was already notoriously limited. There was little space for the congregation of crowds after closing time at such a venue. There was the risk of revellers spilling onto Bear Hill road and then the busy main Swan Street. Coupled with the potential risk of smashed / abandoned glassware on a public road posed a significant traffic safety concern. Central Alvechurch was an alcohol-free zone.

Residents in the immediate vicinity were concerned about loud talking, swearing, laughing and arguing, disorder that was not acceptable on a residential road at night.

The use of CCTV as a measure to prevent crime and disorder would be intrusive for the neighbouring residential properties given their proximity. The property's garden and front overlooked residential properties.

Mr. Pidgeon continued and further informed the Sub-Committee that with regards to public safety, as summarised below that:

- there was no access to the rear of the property for the provision of a fire escape.
- there was no route suitable for fire evacuation to the front of the premises and no mention of fire meeting points.
- there has been no assessment of the fire evacuation plan in relation to the two residential flats.
- the plans submitted to the licensing authority and to the planning department did not show the residential escape route for the flats.

- the negative effect of a smoking area utilised daily was a health concern for the adjacent residencies. A fire risk was also posed.
- the narrowing of the road, and the pavement from Bear Hill approaching the Square, to a single lane, had already led to hazardous congestion. This would be increased with additional cars stopping on Bear Hill to drop people off and then seeking to turn around to re-join Swan Street. They would also need to reverse in or out of the spaces by the Village Hall which could be hazardous and disruptive.
- the burden on traffic and parking would be compounded by delivery vehicles. There were no delivery bays in the vicinity of the property and the road had double yellow lines outside of the property. Lorries delivering supplies and collecting waste would create a pedestrian and traffic hazard as they would be forced to park illegally.
- no formal detail had been provided by the applicant in respect of staff training on the Licensing Act, Public Safety, Food Preparation and how ongoing compliance would be achieved.

Regarding the 'Prevention of Public Nuisance, Mr. Pidgeon informed the Sub-Committee, as summarised below, that:

- there was no barrier to stop noise escaping from the building to the front or rear of the property well into the evening. The garden had already been highlighted as forming part of the trading area within the application. Due to the close vicinity to other properties, noise and vibration would reverberate to a wide area accentuating the problem.
- there would be noise and vibration audible by local residents from any ventilation, cooling and gas equipment used at the premises.
- live music and human voice intrusion would be a public nuisance. With open access of revellers to an outside smoking terrace, music would be a frequent intrusion to the surrounding properties. Intoxicated patrons were likely to create more noise than they realised.
- rubbish collection of trade waste was not included in the planning application. There was also concern over how increased waste storage would impact on the surrounding properties.
- lighting and/or security/surveillance and the infringement to privacy created to the rear of the premises would directly impact the gardens and properties of Swan Street and The Square; as residential gardens and houses directly overlooked the rear of the property.
- despite the revision of the licensing timings until 23:00 hours and until midnight on weekends, it was clear that much of the disruption highlighted would continue beyond these hours as a necessity of closing-up the business each day. No other premises in the area were licenced beyond 23:00 hours.

Mr. Pidgeon's final statement was regarding 'The Protection of Children from Harm' as summarised below that:

- Bear Hill was a residential area, with the usual range of residents, many of whom were families with children. Other businesses on Bear Hill opened during normal working hours and therefore did not impact on the waking and sleeping times of these children. A bar certainly would.
- Intoxicated patrons were likely to create more noise than they realised, coupled with offensive language and behaviour which was inappropriate for children to hear. As with all bars and clubs there would be disagreements between customers as more alcohol was consumed. Disorder that young people did not need to be exposed to.
- the potential for smashed / abandoned glassware on a public road.

Mr. Pidgeon raised additional points of concern regarding the planning application.

At this stage in the Hearing, the Chairman took the opportunity to remind Mr. Pidgeon that planning 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.

The Council's Legal Advisor reiterated that planning was not a licensing consideration for Licensing Sub-Committee Members to consider and she would advise Members to disregard references made in respect of planning.

In response to the objections raised, Mr. Edge clarified that the premises would operate mainly as a restaurant and casual coffee bar, it would not be a 'vertical' drinking establishment. The music would be background ambient music.

Mr. Edge reminded Members that he had offered a voluntary condition, on behalf of the applicant, with regards to 'last entry' times. Should Members be minded to grant the licence he was happy for such a condition to be included. Mr. Edge further reminded Members that with regards to public nuisance from waste disposal, the application detailed that 'no rubbish, including bottles, shall be moved or placed in outside areas between 22:00 hours and 08:00 hours.

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

Mr. Edge had voluntarily offered extra conditions, on behalf of the applicant, in order to address some of the concerns raised in objection to

the application; that Members would need to consider as part of their deliberation.

Members should disregard any issues which fell outside of the Licensing Sub-Committee's jurisdiction, namely, car parking or planning. The Sub-Committee must only consider those matters and evidence directly relevant to the premises.

The Sub-Committee then considered an application for a Premises Licence in respect of Tranquil Bar Limited, 1 Bear Hill, Alvechurch, Worcestershire, B48 7JX and reached the following 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 Technical Officer, Licensing, Worcestershire Regulatory Services.
- The application and oral representations made at the Hearing by the Applicant's Agent, Mr. Rob Edge, Licence Leader Limited.
- The written representation and oral representations made at the Hearing by the Responsible Authorities, namely, Police Sergeant R. Field, West Mercia Police.
- The written representations and oral representations in objection to the Application, made at the Hearing by Mr. T. Pidgeon on behalf of residents.
- Site visit carried out by all Sub-Committee Members on the afternoon of the Wednesday 12th August 2020.

The Sub-Committee decided to grant the application for a premises licence relating to Tranquil Bar Limited, 1 Bear Hill, Alvechurch, Worcestershire, B48 7JX, in the revised terms as set out on page 35 of the main agenda report; with an additional condition offered by Mr. Edge at the Sub-Committee hearing on behalf of the applicant that, the last entry time will be 22.30 hours Sunday to Thursday and 23.00 hours Friday and Saturday.

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

- Sub-Committee Members considered both the written and oral representations submitted by the Applicant's Agent, Mr. R. Edge and noted that this was to be a café during the day and a restaurant in the evening. The application for the sale of alcohol was to enhance the business and the music was intended, primarily, as background ambient music for diners within the restaurant.
- Members attended a site visit which enabled them to have a clear understanding of the lay out of the premises and it was apparent by the size of the venue that it was not going to accommodate the

number of customers that would frequent other licensed premises in the area.

- Members were impressed by the approach taken by the applicant, in liaising with the Responsible Authorities and the business plan which included details of staff training. Members were of the opinion that this demonstrated that the applicant had a clear understanding of the licensing objectives and had taken significant steps to ensure they were addressed.
- Members also considered that the methods by which the applicant would control 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 a responsible licensee who would make every effort to promote the licensing objectives.
- The Sub-Committee gave considerable weight to the representation in support of the application submitted by West Mercia Police which was repeated during the hearing. Members were impressed at the level of cooperation provided by the applicant and specifically noted the comments made by PS Field that the applicant was cooperative, socially responsible and understood the requirement of the Licensing Act 2003, and he was confident that the applicant would do everything he could to promote the four licensing objectives.
- Members considered the objections received and 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 a predominately residential area and not specific to the sale of alcohol.
- In considering the objections Members were only able to have regard to matters that were within their remit. Many of the matters raised pertained to concerns relating to planning, highways or fire precautions, all of which would be considered by the relevant agencies and it was not for the Licensing Sub-Committee to adjudicate on matters which fell to other agencies to determine.
- With regards to the representations directly relevant to the crime and disorder licensing objective, Members noted, and gave considerable weight to the representation, written and oral, provided by PS Field. The s182 Guidance stated that Members should look to the police as a main source of advice on crime and disorder. In light of the support given by the police to this application, Members did not give weight to the references within the objections to crime and disorder.

- In relation to the playing of live or recorded music, Members were only able to consider the application for hours beyond those regulated by the Live Music Act which was from 23:00 hours to midnight on a Friday and Saturday night. Members did not consider that the background music for diners or amplified music on a few occasions each year for pre-booked parties or celebrations would undermine the licensing objectives.
- Members did not give weight to the petition referred to as it was not specific to the licensing objectives and did not provide any context or basis for the signatures, some of which were outside of the district and some from other countries.
- Members concluded that the applicant had demonstrated a clear understanding of the licensing objectives and had submitted an application that reflected this, and therefore the application would be granted.
- The Sub-Committee would remind all parties of the review process that applied to any premises that failed to promote the licensing objectives. Any party could 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 promoted 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 considers 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 7.16 p.m.

Chairman