

BROMSGROVE DISTRICT COUNCIL

**VIRTUAL MEETING OF THE
LICENSING (MISCELLANEOUS) SUB-COMMITTEE B**

TUESDAY, 17TH NOVEMBER 2020, AT 11.00 A.M.

PRESENT: Councillors H. J. Jones (Chairman), A. B. L. English and
M. A. Sherrey

Reserve Member Councillor M. Glass

In attendance: Ms. D. Freeman, Compliance Manager and Mr. J.
Smith, Area Manager, Amber Taverns Limited

Officers: Mrs. V. Brown, Mr. R. Keyte, Mr. P. Morrish, Mrs. A. May
and Mrs. P. Ross

5/20

APOLOGIES

No apologies for absence were received.

6/20

DECLARATIONS OF INTEREST

There were no declarations of interest.

7/20

**APPLICATION FOR A STREET AMENITY CONSENT IN RESPECT OF
AMBER TAVERNS LIMITED, THE OLD POST OFFICE, 117-121 HIGH
STREET, BROMSGROVE, WORCESTERSHIRE, B61 8AA**

The Chairman welcomed all participants to the virtual meeting and in doing so, checked that Members of the Sub-Committee, officers and public speakers were present.

The Chairman explained that Councillor M. Glass, Reserve Member, Mr. R. Keyte, Litigation Lawyer and Mrs. A. May, Technical Officer were present observing the meeting.

The Chairman asked the applicant's representative if she had been made aware that she could be represented by a legal representative at the applicant's own expense during the Hearing. The applicant's representative confirmed that she had been made aware and was happy for the Hearing to continue.

The Chairman confirmed that both she and Councillor M. S. Sherrey had carried out an unannounced Site Visit, Councillor A. B. L. English stated that she was very familiar with the area.

The Sub-Committee then considered an application for a street amenity consent in respect of Amber Taverns Limited, The Old Post Office, 117-121 High Street, Bromsgrove, Worcestershire, B61 8AA; to place 7 tables and 28 chairs in the High Street immediately in front of the premises, Monday to Sunday 09:00 hours to 21:30 hours.

The Technical Officer, Worcestershire Regulatory Services (WRS) outlined the details of the application, together with the reasons why the application had been brought before the Sub-Committee. It was confirmed that the Responsible Authorities had been consulted with and that no representations had been received.

One representation had been received from a nearby business, as attached at Appendix 2 to the report.

The Technical Officer drew Members' attention to the fact the application was received by Worcestershire Regulatory Services on 19th February 2020, however; it was not brought before the Licensing Sub-Committee in March 2020 as licensed premises were closed due to national restrictions following Covid-19 secure guidelines.

At the invitation of the Chairman, Mr. S. Smith Area Manager, Amber Taverns Limited, was asked to put forward the case in support of the application.

Mr. Smith, Area Manager, Amber Taverns Limited, stated that as highlighted by the Technical Officer, the application was submitted before Covid-19 restrictions. However, with social distancing regulations being introduced, staff were now looking at additional extra room and outside space in order to continue to trade whilst following government guidelines on social distancing.

The Slug and Lettuce on the High Street had table and chairs outside.

The pub had been run well for 12 months, although closed for a period of months due to Covid-19. Whilst the pub was open there had been no issues, it was a good amenity for the town.

He had considered the objection received from Mackay Stores Limited and in his opinion, he could not see that the placing of tables and chairs would cause any problems. Amber Taverns in other locations had similar tables and chairs outside without any issues.

The High Street was a nice pedestrian area and a lovely place for people to visit, hence a lot of investment being made on the premises.

In response to questions from the Chairman, Mr. Smith informed Members that they were not asking for a great area outside, the premises sat back from the High Street, they were only looking to use

approximately 8 feet. He did not envisage that this would cause any issues for Mackays Stores Limited.

In response to the objection received from Mackays Stores Limited, Mr. Smith volunteered to place the barriers near to the store at a 45-degree angle, so that the corner was slightly off. This would mean removing one table which he was happy to agree to.

Customers would not be encouraged to use the area as a smoking area, the premises had a smoking area at the rear of the premises, which customers would be directed to. The area would be an outside space for people to enjoy.

In response to further questions from the Chairman, Mr. Smith explained that barriers placed outside were movable, and that staff would accommodate disabled customers as much as possible in order to access this outside space.

Ms. D. Freeman, Compliance Manager, Amber Taverns Limited, further added that the CCTV at the premises was constantly monitored, therefore staff could easily see if any customers needed assistance. The tables and chairs were teak with chrome legs and the tables had flip tops for easy storage when not in use.

With regards to the issue of pigeons and food safety, Ms. Freeman further explained that they had been refused planning permission for a canopy at the front of the building so would look to use suitable outdoor umbrellas to keep away the pigeons.

Mr. Smith further commented that he had no issue with placing a bin outside, however, staff would ensure that tables were regularly cleared.

In response to further questions from Members, Ms. Smith highlighted that the application was put in before Covid-19, but staff would ensure that all social distancing guidelines were adhered to. This could mean placing less tables and chairs in the area and the use of barriers to separate those tables and chairs accordingly.

The Council's Legal Advisor informed Members, that, as previously stated the application was submitted and received before Covid-19 restrictions. Any Covid-19 restrictions would be dealt with following advice from Environmental Health Officers for businesses that had to be Covid-19 compliant.

In summing up, Mr. Smith stated that he was trying to do what was right and did not want to upset other businesses as he wanted to work with the rest of the traders on the High Street.

At this stage in the Hearing, the Council's Legal Advisor sought clarification from Mr. Smith that he had volunteered to place one of the barriers at a 45-degree angle and to remove one of the tables.

Mr. Smith agreed that this was correct, he had volunteered to do this in order to address the concern raised by Mackay Stores Limited with regards to the pedestrian flow.

The Chairman took the opportunity to inform Mr. J. Smith and Ms. D. Freeman that, Councillor M. Glass was present as the Reserve Member and would take no part in the decision making process.

The Council's Legal Advisor informed Members that they should consider all of the information and evidence as presented during the course of the Hearing and the written representation received from the neighbouring business.

Members should consider the location of the site and the location of those who had raised an objection and should consider the Street Amenity Consent Policy; and that the overriding objective of the policy was to ensure safe access to the High Street by all users including pedestrians and emergency vehicles.

The Sub-Committee then adjourned to consider its decision, upon its return it was

RESOLVED that the application for a Street Amenity Consent be granted.

Having had regard to:

- The report presented by the Technical Officer (Licensing), Worcestershire Regulatory Services (WRS).
- The Council's Street Amenity Consent Policy, Process and Conditions.
- The written application and the oral representations provided at the Hearing by Ms. Diana Freeman, Compliance Manager and Mr. Jonathan Smith, Area Manager, Amber Taverns Limited.
- The representation received from Mr. Michael Harris, Estate Manager, Mackays Stores Limited, as detailed at Appendix 2 to the report.

The Sub-Committee decided to allow a Street Trading Amenity consent in the following terms:

The consent was granted for a maximum of four tables and 16 chairs to be placed at no more than 2 metres from the front of the premises, in the area indicated on the plan attached to the Decision Notice.

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

- Members considered the application and oral representations made at the Hearing by Ms. Freeman and Mr. Smith, on behalf of Amber Taverns Limited. Members noted that part of the area was in the recess as the premises was set back slightly from the surrounding buildings.
- Members noted the representations made, and the steps to be taken to ensure the area would be monitored and maintained; and were satisfied that this would ensure that the street furniture would be used in accordance with the council's policy. Members were also satisfied that this would be an area for drinks to be consumed and not a smoking area.
- Members considered the objection from Mr. Harris, Estate Manager, Mackays Stores Limited regarding the pedestrian flow pattern past the company's shop frontage, obstructing views of the shop front, noise, smells and tobacco smoke and potential anti-social behaviour should ancillary street furniture be placed outside of the premises.
- Members noted the concerns raised by Mr. Harris in the context of the policy which required consideration to be given to the operational requirements of neighbouring premises.
- Members considered the representation, with regards to the pedestrian flow, and noted the amendment to the application as submitted by Mr Smith during the hearing, in that the barrier nearest to the neighbouring property, Mackay Stores Limited, would be placed at a 45-degree angle and the nearest table removed.
- However, having regard to the nature of the neighbouring business Members were of the view that it was reliant upon passing trade and allowing the Consent to the extent proposed, would draw attention away from the one of the key features of a fashion business, namely its window display.
- Having conducted a site visit and with their local knowledge of the area, Members had particular regard to the overriding objective of the policy which was to ensure the safe access to the High Street by all users including pedestrians and emergency vehicles.
- Whilst Members noted that there was no objection from the Fire and Rescue Service, they were of the opinion that the pedestrianised area outside the premises was restrictive and to allow the tables and chairs to extend beyond the recess of the building could pose safety issues when vehicles of any kind required access to the High Street.

- Members considered the layout of the proposed tables and chairs and were of the view that this extended beyond a safe distance and may conflict with or impede the safe passage of pedestrians (included the partially sighted and those using wheelchairs or mobility scooters) along the High Street.
- Members concluded that allowing tables and chairs within the recess of the building (as indicated on the plan) would ensure the safe passage for both pedestrians and vehicles and therefore the Consent would be granted to cover the area defined with a maximum of 4 tables and 16 chairs.

The following legal advice was given:

- The Sub-Committee should have regard to the evidence provided and decide what weight to give to the representation received.
- Members should have regard to the Council's Street Amenity Consent Policy, Process and Conditions.
- The Sub-Committee must consider only those matters directly relevant to the Street Amenity Consent; Members must disregard any comments made with regard to any matters which fell outside of their remit.
- The Sub-Committee should determine each application on its own merit.

There was no right of appeal against the decision of the Licensing Sub-Committee.

The meeting closed at 12.25 p.m.

Chairman