

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING SUB-COMMITTEE

WEDNESDAY, 4TH AUGUST 2021, AT 10.35 A.M.

PRESENT: Councillors R. J. Deeming, P. J. Whittaker and A. B. L. English

Reserve Member: Councillor S. P. Douglas (observing)

Also in attendance: Ms. R. Scattergood, Applicant, Mr. J. Najran, Business Partner, Coffee N Clay, Ms. C. Zimmerman, Mr. D. Manley and Mr. P. Sheeran, local residents.

Officers: Mr. R. Keyte, Mr. P. Morrish, Ms. N. Jones (observing) and Mrs. P. Ross

1/21

ELECTION OF CHAIRMAN FOR THE MEETING

RESOLVED that Councillor P. J. Whittaker be appointed Chairman of the Sub-Committee for the meeting.

The Chairman opened the meeting and advised all those present that arrangements had been made to ensure that the meeting was held in accordance with social distancing requirements and Government guidance in respect of holding meetings at a physical location.

2/21

APOLOGIES FOR ABSENCE

No apologies for absence were received.

3/21

DECLARATIONS OF INTEREST

There were no declarations of interest.

4/21

APPLICATION FOR A PREMISES LICENCE IN RESPECT OF COFFEE N CLAY, 5 STATION ROAD, HAGLEY, WORCESTERSHIRE, DY9 0NU

The Chairman welcomed everyone to the meeting and asked all parties present to provide a brief introduction.

It was noted that Ms. N. Jones (Licensing), Worcestershire Regulatory Services (WRS) and Councillor S. P. Douglas were in attendance to observe the Hearing.

Councillor R. J. Deeming announced that he had conducted a site visit, to the site for which the application had been submitted. Councillors P.

J. Whittaker and A. B. L. English commented that they were familiar with the site.

The Sub-Committee then considered an application for a Premises Licence, submitted by Ms. Ruth Scattergood, in respect of Coffee N Clay, 5 Station Road, Hagley, Worcestershire, DY9 0NU.

The application was subject to a Hearing in light of 10 representations being received from members of the public. The basis of their representations detailed grounds for potential for noise nuisance and anti-social behaviour. A number of representations also referred to parking issues and that the premises was located in a conservation area.

The Technical Officer (Licensing) WRS, introduced the report and in doing so highlighted that the applicant was applying for the following licensable activities:-

Sale of Alcohol (on the premises)

Monday and Tuesday	12:00 to 17:00
Thursday to Saturday	12:00 to 22:00
Sunday	12:00 to 15:00

Members were further informed that no objections to the application had been received from any of the Responsible Authorities.

The Technical Officer (Licensing), WRS, 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.

In response to Members and Mr. P. Sheeran, one of the objectors, the Technical Officer (Licensing), WRS, stated that all of the Responsible Authorities had been notified of the application and that officers had no control whether they chose to reply to an application they had been notified of. If they did not reply during the consultation period, officers deemed it that they had no comment to make.

In response to Mr. Manley, one of the objectors, with regard to the Council's Planning Services, the Technical Officer (Licensing), WRS, stated that the Council's Planning Services would not have been consulted with. If planning permission was required for change of use or the opening/closing hours of the premises, the onus was on Ms. Scattergood to seek advice.

The Council's Legal Advisor reiterated that 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 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 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.

In response to further questions from Mr. Manley, the Chairman clarified that with regard to concerns raised in respect of other licensed premises in the area, this was not a consideration for Members.

The Council's Legal Advisor reminded Members that they 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 then invited Ms. Scattergood, the applicant, to put forward her case in support of the application.

Ms. Scattergood explained to the Members that she had opened Coffee n Clay in 2018 for families to enjoy pottery and painting. She currently employed 5 part time staff and also offered work experience positions. The premises were an arts and crafts venue and had been seen as a welcomed addition to Hagley.

Ms. Scattergood continued and informed the Sub-Committee that she had decided to diversify and had started to offer private parties 'Paint and Prosecco' nights, whereby customers could enjoy an evening painting session and were able to bring their own alcohol. She had not received any complaints from the Responsible Authorities or local residents with regard to the 'Paint and Prosecco' nights that had taken place.

The venue predominately attracted families and those interested in arts and crafts, and she had no intention of changing that.

Unfortunately, the representations received in objection to her application had been based on assumptions and were wholly inaccurate. She lived in Hagley and had opened the premises for local residents to enjoy. The venue attracted a certain clientele. It was not her intention to open the venue during the evening as a wine bar or bistro.

Ms. Scattergood further commented that customers would attend creative events and that she did not envisage that any of her customers would leave the premises drunk and disorderly or urinate outside of the premises. She could not be held responsible for any existing anti-social behaviour in the area.

CCTV was in operation in the shop to view and monitor. The premises would hold a maximum of 25 people and there were two toilets in the premises.

Ms. Scattergood also reiterated that parking or lack of parking was not a licensing consideration.

In response to questions from Members with regards to potential noise nuisance, Ms. Scattergood highlighted that none of the Responsible Authorities or local residents had raised any concerns with regard to the 'Paint and Prosecco' nights' that had already been held at the premises. She could request that customers left the premises in a quiet manner but the clientele that attended the evening events were older, responsible clients.

Ms. Scattergood stated that she intended to run the business in a very professional manner and wanted to make the business a success without comprising the four licensing objectives.

At the invitation of the Chairman, Ms C. Zimmerman, Mr. D. Manley and Mr. P. Sheeran addressed the Sub-Committee in objection to the application.

Ms. Zimmerman stated that as a resident on Station Road, she had seen the 'Cheese and Wine' themed evenings advertised. She did not have any concerns with regards to the business being used for pottery / painting events during the day, she was objecting to the 'Cheese and Wine' themed evenings and the potential noise nuisance these events would create in Station Road. There would be more people attending these late events than the number of customers visiting the premises between 09:00 hours and 17:00 hours.

This would result in lots of people leaving the premises late at night and hanging around outside the premises, disturbing the residents and young children would be woken up, especially during the summer months when residents left their windows open.

There had been incidents with youths in the village noisily heading back to the train station late at night. Residents had not called the police, as by the time the police would have arrived the youths would have been gone.

In response Ms. Scattergood stated that the 'Cheese and Wine' evenings had nothing to do with the four licensing objectives. Customers attending these events brought their own alcohol. She was purely looking at ways to diversify the business by using the space to encourage another income. The venue would not be used as a wine bar or bistro.

At this stage in the Hearing, the Chairman stated that should Members be minded to grant such a licence, anyone could call that licence in for review should there be any issues / concerns. It was not a licensing objective as to where any potential customers came from or if they arrived and parked their vehicles on a public road.

In response to questions from Mr. Manley with regards to bottles being thrown into his property, the Chairman, the Council's Legal Advisor and the Technical Officer (Licensing), WRS, all clarified that the sale of alcohol was 'on the premises' only and therefore could only be consumed on the premises. Customers would not be able to purchase alcohol to take off the premises.

Mr. Sheeran thanked Members for the opportunity to address the Sub-Committee. He was concerned about the use of the outdoor area, as detailed on the Premises Plan, page 35 of the main agenda report. This would cause a public noise nuisance for nearby residents and would infringe of the use of their gardens. He would ask the Sub-Committee to consider including a time restriction on using the outdoor area in order to reduce the noise late at night.

The Council's Legal Advisor responded and explained that Members could during their deliberation consider this, however, Members would also have to consider if one of the four licensing objectives would be impinged.

Mr. Sheeran continued and in doing so referred to the four licensing objectives. He was also concerned about the lack of parking, nearby schools and public nuisance with the noise that the premises would bring.

The Council's Legal Advisor commented that stating that 'this was something that could have an effect or what might happen in the future', was speculative. The applicant could hold 'Cheese and Wine' events, which she had done, without any complaints. The only difference would be the sale of alcohol on the premises, rather than customers bringing their own alcohol. Representations in objection, needed to be based on evidence rather than hearsay or potential future issues. As stated during the course of the Hearing, should Members be minded to grant such a licence there was a review process.

In summing up, Ms. Zimmerman expressed her concerns with regard to noise nuisance at night disturbing local residents and the parking difficulties that would be experienced. Ms. Zimmerman also asked whether the times proposed could be reduced to earlier in the evening.

Mr. Sheeran stated that he had nothing further to add.

Mr. Manley asked should the Sub-Committee refuse or grant the licence, would the reasons for the Sub-Committee's decision be detailed.

The Democratic Services Officer explained that a detailed Decision Notice would be sent to the applicant and all those who had submitted a representation within five working days.

In summing up, Ms. Scattergood stated that she had seven years left on the premises lease and that she had no intention of jumping ship. The

premises were a creative space. Her application had been customer driven, having had successful events whereby customers had brought their own alcohol.

In response to the objections raised, Ms. Scattergood explained that as stated previously, that the premises would operate mainly as a creative space, it would not be a wine bar or bistro.

The Council's Legal Advisor further informed Members that they should consider the four licensing objectives, the written and oral representations as presented during the course of the Hearing, section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy.

The Council's Legal Advisor reminded all parties of the review process that applied to any premises that failed to promote the licensing objectives; and that any party was able to request a review of a licence where evidence indicated that the licensing objectives were not being met.

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 Miss Ruth Scattergood. Mr. J. Najran, Business Partner was also in attendance.
- The written representations and oral representations in objection to the Application, made at the Hearing by Ms. C. Zimmerman, Mr. D. Manley and Mr. P. Sheeran.
- A site visit carried out by Councillor R. Deeming.

The Sub-Committee decided to grant the application for a premises licence relating to Coffee N Clay, 5 Station Road, Hagley, Worcestershire, DY9 0NU, for the supply of alcohol for consumption on the premises, for the hours as set out in the operating schedule and on page 23 of the main agenda report.

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 Ms. R. Scattergood and noted that the sale of alcohol was to enhance the business.
- It was also noted by the Sub-Committee that the premises had already held 'prosecco evenings' and cheese and wine evenings, where attendees could bring their own alcohol, no complaints from

any responsible authorities had been received when these events had taken place.

- Councillor Deeming had attended a site visit and Councillors Whittaker and English had made themselves familiar with the site in order have a clear understanding of the area.
- Members were mindful that none of the Responsible Authorities had objected to the application.
- 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.
- Members considered the objections received and appreciated that those living in close proximity to the premises were concerned about the potential impact this business could 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 and conservation 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. Matters raised with regard to parking and planning conditions were not for Licensing Sub-Committee Members to consider.
- 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.
- It was raised by an objector as to whether a restriction could apply excluding the outside area to reduce the noise. This was considered but the Sub-Committee was not presented with any evidence that such a condition was required to promote the four licensing objectives.
- It was also raised by an objector as to whether the times proposed could be reduced to earlier in the evening. This was also considered but the Sub-Committee was not presented with any evidence that such a condition was required to promote the four licensing objectives.
- The Sub-Committee did not find any evidence within the objections that was directly attributable to the premises or any evidence that the grant of the licence would undermine the licensing objectives.

- With regards to the representations received in relation to crime and disorder (anti-social behaviour), the s182 Guidance states that Members should look to the police as a main source of advice on crime and disorder. West Mercia Police, one of the Responsible Authorities had not objected to the application.
- Members concluded that the applicant during the course of the Hearing 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 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 11.30 a.m.

Chairman