

**BROMSGROVE DISTRICT COUNCIL**

**MEETING OF THE LICENSING SUB-COMMITTEE**

**TUESDAY, 23RD NOVEMBER 2021, AT 10.37 A.M.**

PRESENT: Councillors A. D. Kriss, M. A. Sherrey and P. J. Whittaker

Also in attendance: Mr. G. Meads, Councillor C. Hotham and Mrs. K. Cholmondeley,

Officers: Mr. R. Keyte, Mr. P. Morrish and Mrs. P. Ross

5/21 **ELECTION OF CHAIRMAN FOR THE MEETING**

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

6/21 **APOLOGIES**

No apologies for absence were received.

7/21 **DECLARATIONS OF INTEREST**

Councillor A. D. Kriss asked for it to be noted that Beacon ward, the ward where the application site was located, came under his County Council ward area.

8/21 **APPLICATION FOR THE GRANT OF A PREMISES LICENCE IN RESPECT OF THE GARRITY, 18-20 HEWELL ROAD, BARNT GREEN, WORCESTERSHIRE, B45 8NE**

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

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

Councillor A. D. Kriss announced that he had conducted an unannounced site visit, to the site for which the application had been submitted. Councillors M. A. Sherrey stated that she had viewed the site on Google earth and Councillor P. J. Whittaker stated that he was familiar with the site for which the application had been submitted.

The Sub-Committee then considered an application for a Premises Licence, submitted by Mr. Gary Meads, in respect of The Garrity, 18-20 Hewell Road, Barnt Green, Worcestershire, B45 8NE.

The application was subject to a Hearing in light of five representations being received from members of the public. The basis of their representations detailed grounds for potential for noise nuisance, increase in crime and disorder and public nuisance. A number of representations also referred to parking issues and that the premises was located in a semi-residential area.

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

**Late Night Refreshment (Indoors / Outdoors)**

Everyday 23:30 to 23:30

**Sale of Alcohol**

Everyday 10:00 to 23:30

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 that he would remind Members that these issues were not considered valid representations under the four licensing objectives.

Members stated that at this stage in the Hearing they had no questions for the Technical Officer.

Councillor C. Hotham, speaking as district Ward Member, in objection to the application, on behalf of local residents; questioned why the applicant had not requested live or recorded music on his application.

In response the Technical Officer (Licensing ), explained that under the provisions of the Live Music Act 2012, that no authorisation was required under the Licensing Act 2003 for live or recorded music between 8:00am and 11:00pm.

The Chairman then invited the Applicant, Mr. Meads, to put forward his case in support of his application.

Mr. Meads informed Members that he currently ran the Coach & Horses and the microbrewery on site, in Weatheroak. The Coach & Horses had been a family run business since 1967. He had taken over the family business when his parents had retired, so he knew no other trade, except running the business. During this time, he had always maintained a good relationship with Environmental Health officers and local residents in the village.

The Coach and Horses had a Challenge 25 policy and therefore did not get any trouble at the premises. This was also down to how the premises was run, with staff trained to refuse to serve anyone who appeared intoxicated.

He would bring all of this knowledge and skill set to running The Garrity. He had tried to look for an area that was missing a Taproom and had felt that Barnt Green was a good option. The proposed venue would be aimed at 30 plus young professionals and would offer a relaxed atmosphere. 80% of the beer would be good quality beer, with good quality wine and cocktails also available. There would be no 'happy hour' and no 'buy one get one free' offers. It would not be a Sky sports promotion bar and the music would be background ambient music. He was aiming to attract discerning customers into premises with a high end finish.

Mr. Meads continued and further informed the Sub-Committee that he had spoken with Environmental Health and Licensing officers and had taken the advice given with regard to clearing the outside area early and to provide signage asking customers when leaving the premises to be respectful with regard to the local residents, by leaving the premises quietly.

He did not envisage potential customers leaving the premises as late night revellers. The Challenge 25 policy would prevent anyone under the age of 25 from drinking in the premises, this would be well marshalled by staff.

The police had suggested CCTV and he had complied with this, as detailed on his application form, section M (b) 'The prevention of crime and disorder' on page 24 of the main agenda report.

Mr. Meads asked Members to note that none of the Responsible Authorities had raised any concerns / representations to his application.

Mr. Meads continued and stated that he had read and re-read the representations received, as detailed on pages 35 to 39 of the main agenda report. He wanted to acknowledge the concerns raised, however, parking and traffic were not a licensing consideration. There was parking for 40 vehicles at the rear of the premises and the landlord had agreed that his customers could park there after 6:00pm.

The premises would be well run and this would be down to the trained staff to help manage with the Challenge 25 policy and completing the Alcohol Refusals Log Book. Mr. Meads informed Members that he held a Personal Licence and was a Designated Premises Supervisor. He just wanted to create a pleasant environment in Barnt Green.

Mr. Meads further added that, he had taken into consideration the concerns raised within the representations received; and that in

response to those concerns, in respect of the opening / closing times of the premises, that he was willing to amend his application as follows:-

**Sale of Alcohol**

Monday to Sunday                    10:00 to 22:30

The withdrawal for late night refreshment from his application and that the outside area to be cleared by 21:30pm, by way of concession to the objections received.

In response to the Chairman, Mr. Meads explained that a 'Taproom' was seen as a modern name for selling craft beers / real ale and that the area above the premises was used as offices. Smoking would be permitted outside the rear of the premises.

At the invitation of the Chairman, Councillor C. Hotham, Ward Member, addressed the Sub-Committee in objection to the application, on behalf of local residents.

Councillor Hotham commented that Mr. Meads was a very good and experienced operator. However, the proposed Taproom would be very different to the Coach & Horses. The Coach and Horses customers mainly arrived and left by car. The Garrity was in a residential area and customers would arrive and leave on foot, how would this affect local residents? They may not be under the severe effect of alcohol but they would be noisy when leaving the premises late at night.

In response Mr. Meads stated that he had reflected on the representations received around the proposed closing time and commented that other establishments in the area closed at different times and he had thought that by closing, at the amended time of 10:30pm, that this would disperse his clientele at a different time to other establishments in the area.

In response to Councillor Hotham regards customers smoking at the front of the premises and how he would enforce this; Mr. Meads explained that he would not be able to stop customers from smoking on the pavement at the front of the premises, only on the land at the front owned by the landlord. However, staff would direct customers to the smoking area at the rear of the premises. Should there be any cigarette butts left at the front of the premises he would clean them up.

At the invitation of the Chairman, Mrs. K. Cholmondeley, speaking in objection to the application, on behalf of Mavis Jones, highlighted that the premises was located less than 10 metres from her property. She knew Mr. Meads so it was not a personal issue, predominately she had concerns with regard to more cars parking in the area. It was a reasonably quiet area and her driveway was at the rear of her house right next door to the premises. So, cars arriving and leaving the premises would have a great impact. The main bedroom was at the front of the property so she would be unable to open her windows due to

the noise from customers using taxis to be picked up, as this would not be done quietly. The noise would also affect young children nearby trying to sleep. There were two public houses at the end of the village which were a good distance away from the residential properties.

Mrs. Cholmondeley finished by stating that a number of commercial premises closed at 10:00pm so all of this would have an impact.

Councillor Hotham further added that The Garrity was a good business case, and that Mr. Meads was a good operator, he was purely concerned about the impact that the proposed opening hours would have on residents. He understood that parking was not a licensing issue. With regards to Public Nuisance, he would ask as to how many needed to be affected by public nuisance? With the number of residential properties nearby, potentially 68 people could be affected, 2.43 people on average per household. People who lived nearby wanted to sleep and did not want their sleep or their children's sleep disturbed. Noise nuisance could / would affect the sleep pattern of residents. It was good that Mr. Meads had offered to reduce the opening hours and was now willing to close at 10:30pm. However, the premises would not be cleared out until 11:00pm and this would happen seven days a week.

In response Mr. Meads highlighted that he understood that there was a strength of feeling from local residents and that he had forgotten to inform the Sub-Committee that, following on from the representations received, that he was further willing to amend his application and would now only be applying for five days a week, as follows:-

**Sale of Alcohol**

Tuesday to Saturday 10:00 to 22:30

In response to this the Chairman sought further clarification from Mr. Meads as to what he was now applying for. Mr. Meads confirmed the following:-

- **Sale of Alcohol**  
Tuesday to Saturday 10:00 to 22:30
- The withdrawal for late night refreshment from his application and that the outside area to be cleared by 21:30pm.

Mr. Meads further commented that the Victoria public house in Barnt Green was surrounded by residential properties within 10 metres.

In summing up, Councillor Hotham stated that personally he would welcome the premises, his only concern was the closing time and he would suggest closing 30 minutes earlier than proposed, however it was the Sub-Committee's decision to decide the extent of what nuisance there would be in that 30 minute period.

At this stage in the Hearing the Chairman took the opportunity to remind all those present that should Members be minded to grant such a licence, anyone could call that licence in for review should there be any issues / concerns.

In summing up, Mrs. Cholmondeley added that a 10:00pm closing time was more appropriate and fairer due to the closing times of other premises in the area.

With the agreement of the Chairman, Councillor A. D. Kriss commented that he welcomed such a responsible licensee who was aware of the four licensing objectives. He was aware of the whole layout of the area with most properties being two storeys high. There was more noise by the railway station, public nuisance was a concern but Mr. Meads appeared to be a responsible licensee.

In summing up Mr. Meads explained that The Garrity was something that would fit very well in Barnt Green. Mrs. Cholmondeley knew what type of person he was, he was responsible and would add to the village. The landlord was struggling to get any retail clients into the property. The Garrity along with other premises would create a nice eating / drinking hub in a small environment.

The Council's Legal Advisor explained that Members could during their deliberation consider the amendments offered by Mr. Meads to his application, as detailed in the preamble above.

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.

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 Gary Philip Meads.
- The five written representations in objection to the Application and the oral representations made by Mrs K. Cholmondeley (on behalf of Mavis Jones) and Councillor C. Hotham on behalf of residents, made at the hearing.

The Sub-Committee decided to grant the application for a premises licence relating to The Garrity, 18 – 20 Hewell Road, Barnt Green, Worcestershire, B45 8NE, in the revised terms of the application offered

by the applicant during the course of the Hearing, by way of concessions to the objections raised, namely;

- **The Sale of Alcohol between Tuesday and Saturday inclusive between the hours of 10:00am and 10.30pm.**
- **The sale of Alcohol on Christmas Eve/Christmas Day and New Year's Eve/New Year's Day between the hours of 10:00am and 01:00am.**

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 Mr. Gary Philip Meads and noted that this was to be a micro pub/tap house and that the music was intended, primarily, as background ambient music for clients within the venue.
- Members were impressed by the approach taken by the applicant, in liaising with the Responsible Authorities and objectors, the concessions offered by the applicant and the measures proposed to promote the four licensing objectives. 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.
- 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 or highways, 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.
- Mr Gary Philip Meads withdrew the request for late night refreshment during the meeting as an amendment to the application, by way of concession to the objections raised.

- It was noted that the application included a request to extend the hours on Christmas Eve/Christmas Day and New Year's Eve/New Year's Day to 1am. Members were uncertain if in light of his concessions the applicant still wanted to open on those days if they fell on a Monday/Sunday when the premises were not normally licenced and that the wording 'hours to be extended' may cause confusion if they fell on a day not normally licensed. The Sub-Committee took the view that when the applicant made the application there was an intention to open extended hours on those days and they felt it was reasonable to allow the premises to do so, so have granted the license on the terms listed below, which was mirrored at above;

**The sale of Alcohol on Christmas Eve/Christmas Day and New Year's Eve/New Year's Day between the hours of 10:00am and 01:00am.**

- Members concluded that the applicant had demonstrated a clear understanding of the licensing objectives and had submitted an application that reflected this and also made several concessions through the process to responsible authorities and other objectors 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. This was especially relevant as the business was not currently operating.

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 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.



Licensing Sub-Committee  
23rd November 2021

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 11.23 a.m.

Chairman