

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING SUB-COMMITTEE

TUESDAY, 1ST NOVEMBER 2022, AT 6.18 P.M.

PRESENT: Councillors A. D. Kriss, S. A. Robinson and C. J. Spencer

In attendance: Ms. S. Clover, Barrister, Kings Chambers, Mr. C. Moore, Licensing Consultant, C. N. A. Risk Management, Ms. K. Stevens, Area Manager, Mr. D. Caddick, Area Manager, Westbourne Leisure, Ms. S. Winkless, DPS, Alvechurch Inn, PC A. Stanley and PC K. Norris, West Mercia Police.

Officers: Mrs. V. Brown, Mr. T. Phelan, Mrs. P. Ross and Mr. G. Day

24/22

ELECTION OF CHAIRMAN FOR THE MEETING

RESOLVED that Councillor A. D. Kriss be appointed Chairman of the Sub-Committee for the meeting.

25/22

APOLOGIES

An apology for absence was received from Councillor M. A. Sherrey, Reserve Member.

26/22

DECLARATIONS OF INTEREST

There were no declarations of interest.

27/22

APPLICATION FOR A PREMISES LICENCE IN RESPECT OF ALVECHURCH INN, RADFORD ROAD, ALVECHURCH, BROMSGROVE, B48 7LD.

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

The Chairman asked all parties to the proceedings if they were satisfied with the Hearing procedures to be followed. It was noted that any variation to the Hearing procedures would be at the discretion of the Chairman.

The Chairman noted that the premises licence holder was legally represented.

The Sub-Committee then considered an application for a Premises Licence, submitted by Westbourne Leisure Limited, in respect of Alvechurch Inn, Radford Road, Alvechurch, Bromsgrove, B48 7LD.

The Technical Officer (Licensing), Worcestershire Regulatory Services (WRS) presented his report and in doing so explained that the premises was subject to a Hearing in light of a representation being received from a Responsible Authority, namely PC A. Stanley, Licensing Officer, West Mercia Police, as detailed at Appendix 3, on page 39 of the main agenda report; and 6 valid objections received from members of the public, as detailed at Appendix 4, on pages 41 to 47 of the main agenda report.

The basis of the representations being on the following licencing objectives: -

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance

It was noted that no representations had been received from any other Responsible Authority.

As detailed in the report, the Police were asking for four additional Conditions to be added to the premises licence, as detailed on page 39 of the main agenda report; should Members be minded to grant such a licence.

At this stage of the Hearing, it was highlighted by the Technical Officer (Licensing), WRS, that the premises currently held a Club Premises Certificate; and that on 8th February 2022 a copy of the licence was requested; which resulted in a Premises Licence being sent out in error. Licensing Officers contacted the agent on 19th July 2022 to advise that an error had occurred and that the premises did not hold a Premises Licence.

The Applicant was applying for the following licensable activities: -

Activity	Days	From	To	Indoors/Outdoors
Performance of Dance	Friday - Sunday	19:00	- 00:00	Indoors
Performance of Dance	Monday Thursday	- 19:00	- 23:00	Indoors
Exhibition of Films	Friday - Sunday	19:00	- 00:00	Indoors
Exhibition of Films	Monday Thursday	- 19:00	- 23:00	Indoors
Indoor Sporting Events	Friday - Sunday	19:00	- 00:00	Indoors
Indoor Sporting Events	Monday Thursday	- 19:00	- 23:00	Indoors
Performance of Live Music	Friday - Sunday	19:00	- 00:00	Indoors

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Performance of Live Music	Monday Thursday	- 19:00 - 23:00	Indoors
Performance of Plays	Friday - Sunday	19:00 - 00:00	Indoors
Performance of Plays	Monday Thursday	- 19:00 - 23:00	Indoors
Playing of Recorded Music	Friday - Sunday	19:00 - 00:00	Indoors
Playing of Recorded Music	Monday Thursday	- 19:00 - 23:00	Indoors
Sale of Alcohol	Friday - Sunday	11:00 - 00:00	
Sale of Alcohol	Monday Thursday	- 11:00 - 23:00	

The Designated Premises Supervisor (DPS) was identified as Sally Jane Winkless.

At the invitation of the Chairman, Ms. Sarah Clover, Barrister, Kings Chambers, put forward the case in support of the Premises Licence application.

Ms. Clover highlighted that this was a slightly unusual situation, in that the premises had been licensed since 2003 and that they had a Club Premises Certificate, date of first issue 1st November 2005; and that had also received a Premises Licence which was dated 24th November 2005.

Westbourne Leisure Limited had nothing to do with the Club during that period of time. When their Licensing Consultant, Mr. Carl Moore, had requested a copy of the licence from WRS, a Premises Licence was received in January /February 2022. In June 2022 a Licensing Officer, WRS, had visited the premises and had queried as to why the premises were not operating under their Club Premises Certificate. The Licensing Officer, WRS, was then shown the Premises Licence and stated that it had been issued in error.

Ms. Clover highlighted to Sub-Committee Members, that there was no such thing as a Local Authority (LA) issuing a premises licence 'in error' and that the presumption of the regulations under the Licensing Act 2003, was that a licence had been issued; and that the LA would need to apply to the High Court for a review or revocation, declaring that a premises licence had been issued 'in error', it was just too simple to say that it had been issued in error, that was a wrong matter of law.

Ms. Clover further highlighted that the premises could still operate under the premises licence, that was issued in error, until an appeal Hearing was held; which could take up to a year. However, the mistake had

prompted Westbourne Leisure Limited to apply for a premises licence, which they were fine with doing.

Ms. Clover continued and stated that she was concerned that residents seemed to think that an extension to the licence was being applied for, hence raising representations against such a licence. However, that was not the case, it was just a replication of the Club Premises Certificate operating hours being transferred onto a Premises Licence. Ms. Clover further stated that the representations received from residents might sound alarming to Members, however, she would ask Members to take into account that no one had ever complained about the premises to the Police, Licensing Officers, WRS; or the premises owners since 2005. In 2022 a Licensing Officer, WRS, had visited the premises to carry out a routine check.

Ms. Clover then drew Members' attention to the four conditions requested by PC A. Stanley, West Mercia Police, as detailed on page 39 of the main agenda report.

Ms. Clover informed Members that any conditions included needed to be proportionate and appropriate. Westbourne Leisure Limited were happy to accept Conditions 1 and 3. With regard to Condition 2, there was no explanation or justification from the Police for this condition. With regard to Condition 2, there was no merit for this condition. There was currently a dilemma with premises recruiting and retaining door staff. The number of door staff, for events at the premises, would be based on a Risk Assessment to determine the merit for additional support of door staff. Staff would complete a form detailing the Risk Assessment and how the number of door staff was determined. Licensing Officers, WRS would be able to look at these assessments.

Ms. Clover then referred to the police representation, which detailed that there had been a number of reports since November 2021, which had included assaults and anti-social behaviour; yet the police had not provided any incident logs. Ms. S. J. Winkless, DPS, informed the Sub-Committee that there had only been one reported incident involving a rowdy crowd in the car park; and that she had called the police and ambulance service.

Ms. Clover continued and further informed Members that the car park was not solely used by visitors to the Club; it was publicly used by lots of people. Ms. Winkless categorically denied that her patrons had been associated with any of the behaviour described in the representations received from residents. As highlighted earlier there had been no

objections / complaints from residents since 2005. No review of the premises had ever been called and that residents were only made aware when a Premises Licence was applied for.

The Council would have ultimate control of the premises operating under a Premises Licence, based on the evidence provided before Members today; and currently there was no evidence to indicate that the premises was responsible for the issues raised in the representations received.

At this stage in the Hearing, PC Stanley referred to police incident logs. Ms. Clover highlighted that the police had not submitted any police incident logs, the Technical Officer also confirmed this, WRS. Ms. Clover reminded Members that any late evidence could only be considered with the agreement of all parties present. The police had had sufficient time during the 28 day consultation period to submit any police incident logs. Therefore, with this in mind, Ms. Clover stated that she would not agree to the police incident logs being submitted or referred to during the course of the Hearing.

Ms. Winkless responded to questions from Members with regard to the doors and windows at the premises being left open during the recent summer months; and in doing so, stated that the doors and windows had been left open during June and July. However, nothing was brought to their attention, no complaints were ever received. This was now dealt with, and the doors were now closed at 10:00 p.m.

Ms. Clover further stated that no specific complaints had ever been received and this was confirmed by the Environmental Health (EH) officer, WRS, who had carried out a routine check in June 2022.

Ms. Clover responded to questions from Members with regard to Conditions and in doing so, informed Members that mandatory conditions were fairly standard on a Club Premises Certificate and a Premises Licence. The premises had been operating under the conditions of a Premises Licence, which was issued by mistake by WRS. It was the EH officer, WRS, who visited the premises in June 2022, who had stated that the premises should be operating under a Club Premises Certificate; which under club rules was for the use of members only.

Ms. Clover further explained that since 2005 the premises had operated under a Club Premises Certificate and had used a 'buzzer' system for

members only. Anything 'member' related had stopped when the Premises Licence was issued.

With regard to the car park ownership, Ms. Clover stated that she was unaware if the Council or Westbourne Leisure owned the car park, but it was opened up for the general public to use.

Ms. K. Stevens, Director, further informed Members that the shared trees were trimmed by the Parish Council and that staff at the premises ensured that the car park was cleared of any litter. The ownership of the car park was a grey area. In conjunction with the Parish Council, the premises allowed the general public to use the car park from very early morning until late evening, therefore as stated earlier, not everyone using the car park were customers of the premises.

Ms. K. Stevens, responded to questions from Members with regard to door staff. Members were informed that door staff were responsible for looking after the premises up to the door area of the premises only. Door staff were not insured to go into an outside public area. Door staff could take a stroll and be seen outside, but under their Security Industry Authority (SIA) licence they were not insured for outside of the premises immediate parameter of the doors.

At the invitation of the Chairman, PC K. Norris, one of the Responsible Authorities, presented the representations on behalf of West Mercia Police.

Pc Norris stated that we needed to see what was appropriate for the area, which was a village; and to consider the incidents reported to the police, Anti-social behaviour, noise nuisance etc. The police were asking for four additional conditions, as detailed on page 39 of the main agenda report; as a result of the reported incidents received with regard to: -

- The prevention of crime and disorder
- The prevention of public nuisance
- Public Safety

PC Stanley was liaising with their Licensing Consultant, Carl Moore, C. N. A. Risk Management.

At this stage in the Hearing, Ms. Clover highlighted that there was nothing in the representation from the police to say that they had been liaising with Carl Moore, this was late evidence under the licensing regulations.

In response to the Council's Legal Advisor, the Chairman agreed to an adjournment in order for the Council's Legal Advisor, the police and Ms. Clover to discuss this matter and for all parties to the proceedings to take a comfort break.

Accordingly, the Hearing stood adjourned from 18:59 p.m. to 19:10 p.m.

At the invitation of the Chairman, PC Norris addressed the Sub-Committee and stated that the conditions on the Club Premises Certificate would be duplicated should a Premises Licence be granted.

The Chairman reminded PC Norris to refer to the representation as detailed in the main agenda pack and not to introduce or refer to issues that were not included in the representation received.

PC Norris continued and drew Members' attention to page 39 of the main agenda report, which detailed the four additional conditions requested by the police. Members were asked to note that the current licence only required part time door staff. West Mercia Police believed that there was a need for a specific door staff condition in order for the premises to abide by the licensing objectives. PC Norris further commented that, as highlighted earlier, she was unable to refer to or discuss the incidents reported to the police, since no police incident logs had been submitted.

In response Ms. Clover reiterated that it was impermissible. The police had received a copy of the agenda pack and had not highlighted that the police logs were missing.

The Council's Legal Advisor requested that PC Norris only referred to and asked questions on the evidence before Members today.

In response to questions from Members with regard to the hours the premises would be open on a Sunday, Ms Stevens stated that there was a lot of community around the premises and people went to work on Mondays, so the hours being requested were reasonable in her opinion.

With the agreement of the Chairman, the Council's Legal Advisor announced that two video recordings, submitted with the representations from residents would be shown to all parties to the proceedings. There was no identification of anyone either visually or in sound; so, Members were advised that there was no requirement to go in exempt session.

The video recordings lasted from 19:20 p.m. to 19:29 p.m.

In response to questions from Members it was clarified that there were no dates / times included with the video recordings. However, the Council's Legal Advisor commented that page 45 of the main agenda pack referred to 'The video attached is an example of the noise that can be heard from inside my property, after 11pm.'

Ms. Clover and Ms. Winkless commented that the second video recording was when a charity event had taken place at the premises, which had ended at 4pm.

In response to questions from Members with regard to a noise limiter, Ms. Winkless stated that one was used when professionals or a D. J. performed. Noise levels were kept within a respectable level. No one had ever come out to complain, she did not know and had never been made aware that there was a problem with noise.

At the invitation of the Chairman, in summing up, PC Norris stated that the police had no massive objections, just the addition of quite specific and strict conditions to the premises licence, which would be easy to follow and would support the premises and local community.

At the invitation of the Chairman, in summing up, Ms. Clover stated that the video recordings volume could be as loud or as quiet as you wanted to make it. The decibel readings provided by the Environmental Health (EH) officer, Worcestershire Regulatory Services, should be given minimal weight, since the EH officer, WRS, was aware of the situation, yet had not submitted a representation.

Residents had not previously brought any concerns about noise at the premises to the attention of anyone at the premises.

The police had requested very specific conditions, which in her opinion could not be justified or were logical, given the information provided by the police. Ms. Clover informed Members, that she must emphasise that the police had never previously had any cause for concern at the premises and issues were only being raised at the Hearing, which seemed disingenuous, as they were not founded on any evidence. Therefore, she would ask Sub-Committee Members to grant the Premises Licence as applied for.

At the invitation of the Chairman, the Council's Legal Advisor stated that Members should consider the application on its own merits and should have regard to the evidence, both written and oral, from the applicant, West Mercia Police as a Responsible Authority, and other parties including the video and audio evidence submitted by two of the residents. With regard to those who had submitted representations, but had not attended the Hearing, Members should give no less weight to those representations.

The Council's Legal Advisor drew Members' attention to the Legal Implications, and the options Members should consider when making its decision, as detailed on page 7 of the main agenda report.

At this stage in the Hearing, the meeting stood adjourned from 19:42 p.m. until 19:52 p.m. in order for Members to consider if they had received all of the information required to make their 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 and on behalf of the applicant.
- The written representation and oral representations made at the Hearing by PC Stanley and PC Norris as the Responsible Authorities on behalf of West Mercia Police.
- The written representations submitted by 6 residents and the video and audio recordings.

The Sub-Committee decided to grant the application for a premises licence relating to Alvechurch Inn in the terms set out in the application with the following modifications:

1. No person to be outside after 2200 hours unless using the smoking area and are smoking, when they have finished, they are to return indoors; this will be monitored by staff.
2. Doors and windows to be closed after 2200 hours.

The meeting closed at 7.52 p.m.

Chairman