



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING SUB-COMMITTEE

MONDAY, 12TH JANUARY 2009, AT 2.00 P.M.

CONFERENCE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Councillors Mrs. R. L. Dent, D. McGrath, Mrs. M. A. Sherrey JP and L. J. Turner

AGENDA

1. Appointment of Chairman for the Meeting
2. To receive apologies for absence and notification of substitutes
3. Declarations of Interest
4. To consider an application for a Premises Licence in respect of Bromsgrove Members Club, Worcester Road, Bromsgrove (Pages 1 - 20)
5. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

22nd December 2008

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BROMSGROVE DISTRICT COUNCIL

LICENSING SUB-COMMITTEE

12TH JANUARY 2009

APPLICATION FOR A PREMISES LICENCE – BROMSGROVE MEMBERS CLUB, WORCESTER ROAD, BROMSGROVE

Responsible Portfolio Holder	Cllr. P. Whittaker
Responsible Head of Service	Head of Planning and Environment Services

1. SUMMARY

- 1.1 To consider an application to grant a premises licence in respect of Bromsgrove Members Club, Worcester Road, Bromsgrove.

2. RECOMMENDATION

- 2.1 That Members determine the application. The application may be refused, or it may be granted in whole or in part (with additional conditions, if appropriate), and all of it or part of it may be applied to the whole or part of the premises provided that the Sub-Committee's decision is consistent with the licensing objectives and the Council's Statement of Licensing Policy.

3. BACKGROUND

- 3.1 The Licensing Authority has received an application for a new Premises Licence, in accordance with the Licensing Act 2003.

- 3.2 Members may wish to note that the premises does already hold a Premises Licence which is currently subject to a review application, which is scheduled to be determined at the end of January. It may be further noted that the hours of operation on the current Premises Licence are the same as those outlined below.

- 3.2 The new application to seeking the following permissions:

Retail sale of alcohol

- 10.00 a.m. – 12 midnight. into the morning following every Sunday through to Thursday;
- 10.00 a.m. - 1.00 a.m. into the morning following every Friday and Saturday;
- New Year's Eve – 10.00 a.m. till the start of trading on New Year's Day.

Provision of regulated entertainment inside the premises(Performance of a play; exhibition of films; indoor sporting events; boxing or wrestling entertainments; live music; recorded music; performance of dance; anything of a similar description; provision of facilities for making music; provision of facilities for dancing; provision of facilities for entertainment of a similar description;)

- 10.00 a.m. – 12 midnight. into the morning following every Sunday through to Thursday;
- 10.00 a.m. - 1.00 a.m. into the morning following every Friday and Saturday;
- New Year's Eve – 10.00 a.m. till the start of trading on New Year's Day.

Provision of late night refreshment

- 11.00 p.m. – 12 midnight. into the morning following every Sunday through to Thursday;
- 11.00 p.m. - 1.00 a.m. into the morning following every Friday and Saturday;
- New Year's Eve – 11.00 p.m. till the start of trading on New Year's Day.

Actual opening hours of the premises

- 10.00 a.m. – 12.30 a.m. into the morning following every Sunday through to Thursday;
- 10.00 a.m. - 1.30 a.m. into the morning following every Friday and Saturday;
- New Year's Eve – 10.00 a.m. till the start of trading on New Year's Day.

3.3 In addition to the above-mentioned licensable activities taking place on the premises, the applicant has stated in the application form that it is not their intention to use the premises for adult entertainment but it cannot be ruled out in the future. Any such adult entertainment of whatever nature will only be introduced to the premises upon giving at least 14 days notice to the Police Authority.

3.4 Since receiving the application and through the mediation process, the applicant has agreed to also inform the Licensing Authority and the Area Child Protection Committee of any such adult entertainment events taking place on the premises.

3.5 As part of the application process, applicants are required to carry out a risk assessment of the effect the proposed licence would have on the four licensing objectives and what steps they intend to take in order to promote these objectives should the application be granted.

3.6 For ease of reference the four licensing objectives are:

- Prevention of crime and disorder;
- Protection of public safety;
- Prevention of public nuisance;

- Protection of children from harm.
- 3.7 Details of the measures the applicant is prepared to take are set out at Appendix 'A'. Should the licence be granted, these measures will form part of the licence, which the applicant will have to adhere to.
- 3.8 In accordance with the Licensing Act, a responsible authority is entitled to make representations. Responsible authorities include the Police Authority, Planning Authority, the Council's own Environmental Health Department, Fire Authority, Trading Standards and the Area Child Protection Committee.
- 3.9 On this occasion, a representation has been received from the Council's Environment Health Section (Pollution Control) on the grounds of public nuisance. A copy of their report is attached at Appendix 'B'.
- 3.10 No representations have been received from the other responsible authorities.
- 3.11 In accordance with the Licensing Act, anyone residing in the vicinity of a premises for which an application has been made is entitled to make representations. Vicinity is not defined in the Licensing Act.
- 3.12 Representations have been made by 4 residents living near to the premises. A copy of each representation is attached at Appendix 'C'. The basis of their representations relate noise nuisance arising from public entertainment events.
- 3.13 A plan showing the location of the premises is attached at Appendix 'D'.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising from this Report. However if either party made a successful appeal to the Magistrates' Court against the decision of the Council, the Council may be liable for any legal costs.

5. LEGAL IMPLICATIONS

- 5.1 Each party is entitled to appeal to the Magistrates' Court if they are dissatisfied with the decision of the Council, within 21 days from the date of decision.
- 5.2 The Sub-Committee must have regard to the Statutory Guidance, issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- 5.3 The Sub-Committee must have regard to the Council's Statement of Licensing Policy.
- 5.4 The conduct of the Sub-Committee is governed by the Licensing Act 2003 (Hearings) Regulations 2005, as amended.

5.5 The Sub-Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights.

6. **COUNCIL OBJECTIVES**

6.1 This item links with the Council Objective CO2.

7. **RISK MANAGEMENT**

7.1 The main risk associated with the details included in this report are:

- Decision made without having regard to Council Policy, Guidance issued by Secretary of State and governing legislation.

7.2 This risk is being managed as follows:

- Adhere to all licensing policies and legislation when determining applications for all licensing functions.
- Risk Register: Planning and Environment Services
- Key Objective Ref No. 7

8. **CUSTOMER IMPLICATIONS**

8.1 All parties will be notified of the Council's decision in writing.

9. **EQUALITIES AND DIVERSITY IMPLICATIONS**

9.1 All applicants are dealt with on their own individual merits are accepted in line with legislation and Council Policy.

10. **VALUE FOR MONEY IMPLICATIONS**

10.1 None.

11. **OTHER IMPLICATIONS**

Procurement Issues – None
Personnel Implications – None
Governance/Performance Management – None
Community Safety including Section 17 of the Crime and Disorder Act 1998 – None
Policy – The Council's Statement of Licensing Policy applies to this application. This reads: " <i>We will consider every application sent to us, on its individual merits. When we make licensing decisions we will promote:</i> " <ul style="list-style-type: none">▪ <i>prevention of crime and disorder;</i>▪ <i>protection of public safety;</i>

<ul style="list-style-type: none"> ▪ <i>prevention of public nuisance, and</i> ▪ <i>protection of children from harm.”</i>
Environmental - None

12. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	Yes
Chief Executive	No
Corporate Director (Services)	No
Assistant Chief Executive	No
Head of Service	Yes
Head of Financial Services	No
Head of Legal, Equalities and Democratic Services	Yes
Head of Organisational Development & HR	No
Corporate Procurement Team	No

13. WARDS AFFECTED

All wards.

14. APPENDICES

- Appendix A - List of conditions attached to existing licence
- Appendix B - Report from Council's Environmental Services (Pollution Control).
- Appendix C – Operating schedule
- Appendix D – Location plan of the premises

15. BACKGROUND PAPERS

- Application form received on 21st November 2008
- Email received from the Police dated 19th December 2008
- Memo received from Environmental Services (Pollution Control) dated 15th December 2008
- Email received from Environmental Services (Health & Safety) dated 27th November 2008
- Letter received from Worcestershire County Council – Safeguarding and Quality Assurance dated 1st December 2008
- Email received from Hereford & Worcester Fire and Rescue Authority dated 1st December 2008

Contact officer

Name: Sharon Smith, Principal Licensing Officer

E Mail: sharon.smith@bromsgrove.gov.uk
Tel: (01527) 881626

P Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

The Applicant has a well trained management team and a training programme to ensure all staff are briefed on the licensing objectives covering in particular no underage drinking, no drunkenness on the premises or outside of the premises, no use of drugs, no violent or anti-social behaviour and that there is a need to protect children from harm.

b) The prevention of crime and disorder

Responsible management controls, for example capacity levels. Ongoing staff training including identification of anti-social or unusual behaviour. Training and supervision of all staff to adopt best practice, adhere to the Portman Group on drinks strategy. Use of proof of age scheme, internal and external lighting checked regularly.

c) Public safety

First aid training for a member of staff. Health and Safety risk assessment carried out regularly. Electrics, gas fire and relevant equipment, checked and maintained in working order and tested annually. Fire risk assessment carried out weekly. Adoption of best practices, e.g. National Alcohol Harm Reduction Strategy.

d) The prevention of public nuisance

Responsible management at all times. Zero tolerance to drunken or anti-social behaviour. Regular visits to all parts of the premises. Management and staff, voluntarily follow best practice, e.g. control of noise from pubs and clubs. Out of hours deliveries to be monitored. All staff trained to ensure quiet departure of patrons. Ventilation to be maintained to prevent nuisance of odour and noise. Recorded music sound levels to be monitored. All windows will be kept closed after 23.00.

No persons are to be admitted onto the premises after 23:00 hours.

The Designated Premises Supervisor shall undertake regular monitoring to ensure external levels of music are not excessive. This is to be done once per hour during events and curative measures taken if necessary.

Prominent, clear and legible notices are to be displayed at the front door entrance to the club requesting members to respect the local residents and to leave the premises and the area quietly.

Any regulated entertainment at the premises shall not be capable of causing a statutory nuisance.

The Applicant has submitted an assessment of the sound insulation of the building envelope carried out by a competent person and a suitable scheme of noise insulation works including soundproofing and mechanical ventilation specified as necessary..

e) The protection of children from harm

Provision of sufficient staff to protect children from harm, with training on appropriate behaviour. Children have to be accompanied by a responsible person who has attained the age of 18. No children allowed at the bar serveries. No persons under the age of 18 years permitted to play the AWP machine ~~unless over the age of 16 and accompanied by a responsible adult~~. In the event of any type of adult entertainment taking place no persons under the age of 18, whether a member, guest or performer, will be admitted.

Please tick yes

- I have made or enclosed payment of the fee
- I have enclosed the plan of the premises
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable
- I understand that I must now advertise my application
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 11). **If signing on behalf of the applicant please state in what capacity.**

Signature	<i>Wright Hassell</i>
Date	19 NOVEMBER 2008
Capacity	APPLICANT'S SOLICITOR

For joint applications signature of 2nd applicant or 2nd applicant’s solicitor or other authorised agent. (please read guidance note 12). **If signing on behalf of the applicant please state in what capacity.**

Memorandum

To: Principal Licensing Officer

From: Environmental Health Unit

Date: 15.12.08

Our ref: NDP/WK/200700690

Your ref:



bromsgrove council
www.bromsgrove.gov.uk

LICENSING ACT 2003, PREMISES LICENSE APPLICATION. BROMSGROVE MEMBERS CLUB, 174 WORCESTER ROAD, BROMSGROVE.

As you will be aware, there is an ongoing history of noise complaints relating to amplified live and recorded music from this venue. It is therefore recommended that if the license is granted it should be conditioned appropriately for the prevention of public nuisance.

A condition was placed upon the existing premises license requiring the applicant to have an assessment of the sound insulation of the building envelope carried out by a competent person, and a suitable scheme of noise insulation works including sound proofed mechanical ventilation specified as necessary. The assessment and sound insulation scheme was to be submitted to and approved by BDC and implemented before live or recorded music events are held at the premises. Regular music events have been held at the premises in breach of this requirement, giving rise to a number of complaints and leading to the Premises License being called in for review (pending). Whilst a suitable scheme has recently been submitted and approved, I am unaware of the current state of progress with implementation.

I would recommend the following conditions in addition to the proposed steps:

- No live or recorded music events should be permitted at the premises until all measures specified in RPS Gregory report B5231-A /ENV/A2 paragraph 6.1 (Initial Measures) have been implemented. The further steps given under paragraph 6.2 (Additional Measures) shall also be implemented if in the view of the Licensing authority the initial measures of paragraph 6.1 are found to be insufficient.
- All doors and windows to be kept closed except for ingress and egress after 2300 hours and at all times during live or recorded music events.

- The designated Premises Supervisor shall undertake regular monitoring to ensure external levels of music are not such as to cause annoyance. This is to be done once per hour during events and curative measures taken if necessary. Written records shall be kept of all such monitoring results and of any actions taken.
- The electronic noise limiting device installed in the function room shall be set to an appropriate level to prevent annoyance to neighbours, and shall be used at all times to control amplification equipment used for live or recorded music events.

Please do not hesitate to contact me if I can be of further assistance.

Nathan Poole
Environmental Health Officer

Dear Ms. Smith,

Re:- Bromsgrove Members Club.

With regard to the Notice of Hearing, reference the application for a premises licence at the above club, I would like to make my views and observations known to you and the Sub-Committee for this hearing.

I have written to you before, with dates and times that we, in Shrubbery Road, have had to endure with noise, anti social behaviour, banging of car doors etc., and this problem does not go away.

They may think that the bricking-up of the two fire doors has solved their problem, but I can assure you, that it has not.

Even the two last Saturdays proved my point, when the noise could still be heard, especially on the 6th, when music and loud singing could be heard in my back bedroom.

I see that the hours are to remain the same, but how does this effect the times when they have a televised boxing match, at unearthly times of the morning, and people stopping to see that?, as this happened not so long ago with the match in America.

As far as horse racing rights and casino nights go, I am totally against this and feel this may encourage the wrong type of members, if indeed they are members.

Since these premises were taken over by Bromsgrove Members Club, the situation on all levels has gone from bad to worse, and the ~~overall~~ ^{overall} appearance of the sight is at best, terrible. No grounds maintenance of any kind takes place.

3.

I would ask, that due to the many complaints you must have received, you will consider the residents of this area, who all must pay their Council Tax, and not one individual company.

Yours faithfully.

J

U

15th December, 2008.

For the attention of Mrs. Sharon Smith,
Principal Licensing Officer,
Bromsgrove District Council,
The Council House,
Burcot Lane,
Bromsgrove,
Worcestershire, B60 1AA.

Dear Sharon,

Bromsgrove Members Club.

Following our recent meeting last Thursday, 11th December, 2008, I give below the latest details regarding the sound problems which have taken place when the Club has been holding social functions, both in the main function room and the front bar.

Saturday, 6th December, 2008.

Loud music and a male singer were heard at 23.50 pm. The noise was coming from the front bar, not the main function room, which is opposite my house. My son, David also heard the noise. At Midnight all went quiet so we were able to go to bed in comparative peace. The noise was also heard by other neighbours.

Saturday, 13th December, 2008.

At 19.10 pm music was heard, which appeared to be coming from the main function room. It was not too loud at that stage, but we thought it may get even louder as the evening went on. It was in fact coming from the front bar, not the main function room. Anyway, it did not get too loud at all on that occasion.

With regard to the Disabled Toilet which was discussed, I am able to confirm that there is definitely not a Disabled Toilet situated near the Ladies and Gents Toilets, as shown on the plan of the building. It is in fact a cleaning cupboard, which is kept locked, unless cleaning is taking place.

The Central Heating boiler had broken down, and on Thursday evening we had three portable calor gas heaters in the big room. Also, with regard to the windows being boarded up on the right hand side of the main function room, I am led to believe that some youths had smashed all the glass in the windows, hence the boarding up of same, but I don't know if it is true or not, there are so many different stories going around at the moment.

Whilst writing, I would like to say that I am certainly not in favour of the noise levels being raised, during functions of any sort. The noise can still be heard at the back of my house, and that is clearly not acceptable. When I moved into Bromsgrove in 1964, Shrubbery Road was a quiet residential road, along with Brook Road, Dovecote Road and all the roads in the vicinity. The area is not suitable for a Night Club or similar venue

I would certainly not like to see a Casino type of club being started. I feel that it could well encourage the wrong type of people to frequent it. Also, the very late hours, as there is bound to be noise when the Taxis arrive to pick up clients and then depart.

I hope these few lines will help you to understand how I feel about these proposals. I know that most of my neighbours feel the same, and I am sure they will say so. My Son, David has to be up at 04.30 am. in order to go to work, so loud noise is not going to help him at all.

Another point to consider is the fact that the value of our properties is going to decrease considerably if the Club becomes a Night Club or Casino, or some such venue. It is easy for people to say we should move, but why should we?

I look forward to hearing from you in due course. Thank you for your help in this matter.

Yours sincerely,

Ms Sharon Smith
Bromsgrove District Council
The Council House
Burcot Lane
Bromsgrove

04 December 2008

Dear Ms Smith,

**Re: Late Night Noise Pollution from Bromsgrove Members Club, 174 Worcester Road
Bromsgrove**

I am sending an amended letter for consideration at the Licensing application hearing since the last hearing was postponed. I am again writing to express my concerns regarding noise pollution originating from Bromsgrove Members Club. Following a public consultation meeting last year, it was our understanding, and we had received assurances from Westbourne Leisure, that this would not be a long-standing issue. This was reiterated, some months later, in a letter dated 30 November 2007 from Mr Paul Owens of Westbourne Leisure in response to a letter we had sent to him expressing our continued concerns. At this time we were assured that Tom Roberson, the Licensee, was "monitoring noise levels attentively" and an acoustic engineer was to submit a report to Bromsgrove District Council "in the next couple of weeks." If any measures were taken to reduce sound levels, we are yet to see a positive improvement, if anything, as this year progressed problems with noise levels gradually increased both in volume and frequency as events seemed to become increasingly regular.

Following the Licensing Sub-committee Hearing on 19 July 2007, it was my understanding that the agreement stated that:

'(5) the Designated Premises Supervisor shall undertake regular monitoring to ensure external levels of music are not excessive. This is to be done once per hour during events and curative measures taken if necessary;'

If this had ever taken place it would have been clear to the responsible individual that the noise levels emanating from the club were clearly excessive contravening:

'(7) that any regulated entertainment shall be inaudible at the boundary of the nearest noise sensitive premises.'

Often the noise levels were so loud that, even with all windows closed, we had been clearly able to hear the music being played that individual lyrics were audible in the rear bedrooms of our property.

I am greatly concerned to hear that the License is up for renewal given that Mr Owens stated in the public consultation meeting that he would apply for an extension to the club's opening hours as soon the last Licence ended. One condition of last year's agreement was that 'the Applicant and Environmental Health will address the issue of any public nuisance due to noise leakage.' At the time of writing my last letter (13 October 2008) this had still not been addressed. Unsurprisingly, since the adjournment of the hearing, workmen have visited the club and, although I am unaware of all works completed, they have blocked both fire exits that opened onto Shrubbery Road, presumably as one measure of reducing noise pollution. Although measures such as these are welcomed, my concern is that they were promised sixteen months ago and are only now being put into place, clearly for the benefit of the Licence application. If this is the case, I do not feel that the club's owners have any genuine concern for the local community and will revert back to a 'profit at all costs' mentality if they are to receive a new, or indeed, extended Licence. If the License is to be renewed, might I ask for written confirmation from Westbourne Leisure that noise pollution will not be an issue in the future and also confirmation of the measures in place to ensure that this will be the case. I would also like a written assurance from Bromsgrove District Council that they will deal with this problem swiftly should it arise in the future. I await your response.

Yours Faithfully,

Ms Sharon Smith
Bromsgrove District Council
The Council House
Burcot Lane
Bromsgrove

11 December 2008

Dear Ms Smith,

**Re: Late Night Noise Pollution from Bromsgrove Members Club, 174 Worcester Road
Bromsgrove**

I have felt the need to send a further letter of concern, as an addendum to that of 4 December (not to replace the content of that letter), for consideration in the forthcoming Licensing Application hearing for the above premises. I feel that I addressed most of the issues in the last letter, but I had also stated that there had been some building work to the premises which may have reduced noise levels emanating from the club. Unfortunately this has proven not to be the case and on the night of Saturday 6 December at 23:50, in the back rooms of our house, we could clearly hear a male vocalist and the words of his song. If this is following application of noise reduction measures, I am concerned about future noise levels at the club and how these will be effectively monitored as previous guarantees and measures have proven to be less than effective.

I am also gravely concerned to learn that the club has applied for an extension to the club's opening hours. I remain unsurprised that noise reduction measures, promised sixteen months ago, have now been put in place immediately prior to an application to extend the hours. I do not feel that the club's owners have any genuine concern for the local community and nervously await the outcome of the hearing.

Yours Faithfully,

RE: BERTS G. RODE MEMBERS CLUB.

14. 12. 08

Dear Shannon.

We feel the music
made be amplified on
all functions has now
does knowl have night
fall the 13TH the noise
was worse than even.

Also no drink to
leave the club for
outside drinking that
has and will cause
trouble

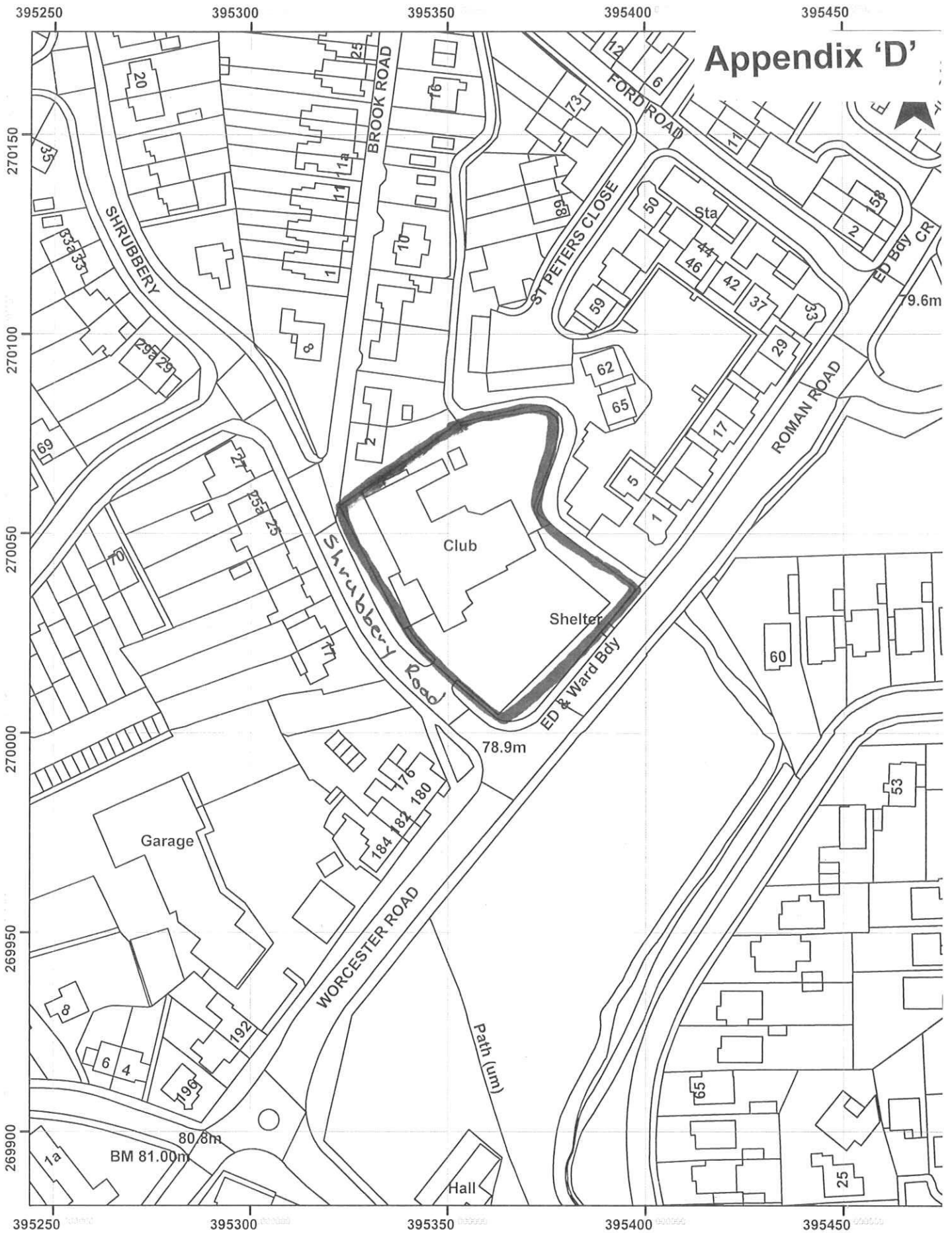
P. 10

There is no disabled
table for the room
of the club is false.
Plus Tom Robinson
has done a runner
the steward.

Yours Truly

PS,
There is one hundred
empty caskets by the
side door which is
a night eye bar for
was being opposite.

Appendix 'D'



LABOUR CLUB
WORCESTER ROAD

SCALE 1:1,250

Bromsgrove District Council
Council House
Burcot Lane
Bromsgrove
B60 1AA



Planning Services