

## **LICENSING SUB-COMMITTEE**

**Wednesday 25th January, 2017 at 10.30 a.m.**

**In a Conference Room at the Council House, Walsall**

### **Present:**

Councillor Worrall (Chairman)  
Councillor Barker  
Councillor Sarohi

### **In attendance:**

Hazel Powell - Senior Licensing Officer – Walsall MBC  
Paul Green - Legal Services – Walsall MBC  
Patrick Burke - Representing lead applicant  
Mrs Nicci Ann Blackwell-Morgan – Applicant  
Mr Ian Blackwell-Morgan – Applicant  
Mrs G. Jones- Objector  
Mrs T. Jones- Objector  
Mrs M. Davis- Objector

### **Appointment of Chairman**

#### **Resolved**

That Councillor Worall be appointed Chairman of the Licensing Sub-Committee for this meeting only.

### **Councillor Worrall in the chair**

#### **Welcome**

The Chairman extended a welcome to all persons present at the Licensing Sub-Committee which had been established under the Licensing Act, 2003.

#### **Apology**

An apology for non-attendance was submitted on behalf of Councillor Clarke.

#### **Declarations of Interest**

There were no declarations of interest.

**1300/16**

#### **Licence Hearing**

**Application for a premises licence under Section 17 of the Licensing Act, 2003- Un-wined, 198 Walsall Wood Road, Aldridge, Walsall, WS9 8HB**

The report of the Director of Public Health was submitted:-

(See annexed)

Councillor Worrall explained the purpose of the meeting and requested the Senior Licensing Officer (Miss Powell) to explain the application.

The Senior Licensing Officer (Miss Powell) enlarged upon the report for the benefit of the Sub-Committee and indicated that the application for a premises licence in respect of Un-wined, 198 Walsall Wood Road, Aldridge, Walsall, WS9 8HB had been made under Section 17 of the Licensing Act, 2003. The application had been made by Nicci Ann Blackwell-Morgan and submitted on her behalf by Patrick Burke of PMB Licensing. The application had been received by the Licensing Authority on 14<sup>th</sup> November, 2016 (appendix 1 refers) and could be granted as requested, granted with additional/ modified conditions or rejected. Miss Powell drew the Sub-Committee's attention to paragraphs 3.3 and 3.4 of the report which summarised the proposed activities and times including the supply of alcohol on and off the premises from 9am to 1am Monday to Sunday. The premises opening times were 9am to 1.30am Monday to Sunday. A non standard timing had been applied for all activities and opening hours. The non standard timing being from the start time on New Year's Eve until the terminal hour on New Year's Day.

A street map showing the location of the premises was given as appendix 2 to the report and Miss Powell confirmed that the application had been submitted to the Statutory "Responsible Authorities" and had been advertised by way of a blue site notice displayed at the premises and a licensing notice had been placed in a newspaper circulating in the area to comply with the requirements of the Licensing Act. Due to a problem with the displaying of the public blue notice, the closing date to receive written representations was extended to 23<sup>rd</sup> December, 2016.

On 16<sup>th</sup> November, 2016 a written representation was received from West Midlands Police (appendix 3 refers) and 20 residents had provided valid written representations (appendix 4 refers). Three representations had been rejected for being either not signed or without an address. Finally, Miss Powell drew the Sub-Committee's attention to paragraph 4.2 of the report which contained the legal position.

Miss Powell reported that since the report had been written, additional information had been supplied in the form of a letter from Mr N Webster of 216 Walsall Wood Road, Aldridge objecting to the application and an email from West Midlands Police stating that, following discussions leading to mediated licensing conditions, they were withdrawing their representations. The Police had agreed the following additional conditions to be included on the licence:-

- Removal of all regulated entertainment from the application.

- CCTV to be installed and maintained at the premises. The system to be in full working order at all times when the premises are open for licensable activities.
- The CCTV system to record and store images for a minimum of 28 days and images to be made available to West Midlands Police and Local Authority Officers upon request.
- An incident log book to be kept and maintained on the premises and made available for inspection by West Midlands Police and other responsible authorities at all times.
- A refusal log book to be maintained at the premises and made available to any responsible authority. Staff to record all refusals of sale of alcohol.
- Hours for the sale of alcohol to be reduced from 9am to 1am Monday to Sunday to 9am to 11pm Monday to Sunday.
- Additional hours for New Year's Eve and New Year's Day to be removed.

(see annexed)

Councillor Sarohi asked for clarification that the opening times for the premises were being reduced to 11.30pm from 1.30am Monday to Sunday. Miss Powell confirmed that this was correct.

An Objector asked what "regulated entertainment" meant. Miss Powell explained that it included plays (indoors); films (indoors); indoor sporting events; live music (indoors); recorded music (indoors) and dance. All these would no longer take place at the premises- 198 Walsall Wood Road, Aldridge.

Mr Burke had no questions for Miss Powell on the report.

Mrs G. Jones (Objector) was invited to make representations and stated that she lived close to the application site and her son lived next door to her. There was an access road to the car park adjacent to her son's house. Her son worked long hours and his ex partner, who still lived at the house, left home at 4am to go to work. She felt that if the application was granted, then noise and car parking problems would result. The car park contained about 30 spaces which was shared with the other shops in the parade and the living accommodation above the premises. She added that visitors to the nearby Co-op store often parked blocking her driveway because the car park was full.

There was an existing litter problem in her garden from the existing shops and the opening of a Wine Bar would only exacerbate this problem. There would be increased noise when the bottle bins were emptied early in the morning which would disturb her 4 year old grandson who came to stay regularly. She asked the Sub-Committee to refuse the application.

Mrs T. Jones (Objector) indicated that she lived quite close to the proposed Wine Bar and was concerned about possible antisocial

behaviour and nuisance from the premises. She stated that she was pleased to hear that the hours for the sale of alcohol were to be reduced but was still concerned that they were over long for a residential area. She continued that there was already a Public House in the vicinity and the proposed Wine Bar would be open for longer hours than the Public House. Children would be forced to walk past the Wine Bar on their way to and from school and would be confronted by noise, bad language and inappropriate behaviour. She added that the area contained a lot of young families and older residents who would be affected by the noise emanating from the premises.

Mrs Jones continued that she had a heart condition and was concerned that people smoking outside the premises could cause health concerns for herself and children walking past the premises on their way to school. She referred to the existing parking problems in the area which would only be made worse if the application was granted.

Mrs Jones indicated that she was pleased with the mediated conditions but was concerned at the added noise and disturbance the Wine Bar might bring. She was also concerned about how the Wine Bar would look in the day time. She stated that the Public House opposite the site had closed and was now the Co-operative store. She felt that noise from the Wine Bar would create a nuisance for nearby residents with its all day operation and availability of alcohol from 9am to 11pm which was later than other Public Houses in the area.

Mrs M. Davis (Objector) informed the meeting that she had lived in Aldridge for 31 years and if the premises licence was granted then the problems associated with the Cedar Tree Public House would return. These included drug dealing and drunken driving. She reported that there had been at least two deaths on Walsall Wood Road related to drink driving and she had also lost three cats run over by vehicles. She continued that the Wine Bar when open would affect the whole of Walsall Wood Road with noise and nuisance from the premises and the danger to pedestrians from speeding cars. She also felt that pedestrians using Walsall Wood Road would be put in danger from drunken drivers and house values would also be affected by the proposed development. She added that there were no speed humps or "slow" signs to deter vehicles from speeding and Walsall Wood Road was narrow and twisting with no pavements in places.

Mrs Davis indicated that other sites were available which were more suited to the use such as the former Limes Public House site on Northgate. Finally she stated that, in her opinion, a Wine Bar open from 9am to 11.30pm daily would be a menace to all Walsall Wood Road's residents.

Councillor Barker asked about the drug problems associated with the former Cedar Tree Public House. Mrs Davis reported that the former Public House's car park was used for drug dealing.

Mrs T. Jones stated that Lazy Hill Road did not attract the same traffic problems as Walsall Wood Road.

Mrs G. Jones was concerned that the access road to the car park could be used for binge drinking or drug dealing.

Councillor Barker asked what had been on the site before. Mrs G. Jones replied that it had always been a shop.

Councillor Sarohi asked if Objectors were happy with the reduced hours proposed by the applicants. The Objectors replied no. In their opinion, opening from 9am to 11.30pm daily was excessive in a residential area.

The Legal Representative (Mr Green) stated that as this was a new application, problems associated with the previous premises could not be attached to it for the purposes of the Licensing Act, 2003.

Councillor Sarohi asked if the Objectors were happy that all regulated entertainment had been removed from the application. The Objectors replied yes.

Councillor Sarohi asked what the opening hours were when the Co-op store occupied the site. It was reported that the Co-operative store was open from 7am to 10pm Monday to Saturday.

Mr Burke had no questions for the Objectors.

Mr Burke was invited to make representations on behalf of the applicants and indicated that Nicci and Ian Blackwell-Morgan were local people. They intended to run a Coffee Shop/ Wine Bar from premises smaller than the previous Public House. The premises would be open from 9am to cater for the breakfast trade then provide lunches, afternoon teas and meals in the evening where wines and beers would be available. He continued that Nicci and Ian wanted to attract local people to the site and were not aiming at the under 30 age group. They had spoken to local residents whilst researching the site and wanted to encourage an older clientele to come in and have a cup of coffee and chat with friends. They would also cater for non-drivers and the disabled. He added that there would be no happy hours or cheap alcohol offers to attract a younger clientele.

The property had been on the market and empty for 2 years so it would improve the district centre by bringing back a disused unit into economic use. His clients were aware that it was an expensive and risky venture but they were confident of success. Parking would be provided at the rear of the premises together with a smoking shelter so there should be no smoking at the front of the premises.

Referring to the concerns of Objectors over the emptying of bottle bins etc Mr Burke stated that his clients would accept a condition that they

should not be emptied late at night e.g. after 10pm or early in the morning. Sound proofing would be required as part of the planning permission.

Mr Burke felt that the concessions made by his clients had dealt with most of the objections referred to in residents' representations and the Police had withdrawn their objection following mediated conditions. He added that competition was irrelevant to the Licensing Act, 2003 and historical drug dealing had nothing to do with this application. His clients would use local taxi operators to encourage patrons not to drink and drive if they lived further afield.

Mr Burke then referred to the Thwaites case and its reference to light touch bureaucracy. He reminded the meeting that representations should be evidence based and not merely speculative. He drew attention to the Section 182 guidelines and to the fact that there had been no representations from other "Responsible Authorities". The applicant (Mr Blackwell-Morgan) indicated that the venture was a family run business aimed at the middle aged and elderly.

Councillor Barker asked if it was Mr Blackwell-Morgan's intention to run a cafe/coffee shop/ wine bar from the premises. Mr Blackwell-Morgan replied yes. He asked for confirmation that there would be no cheap alcohol promotions. Mr Blackwell-Morgan concurred. He asked how Mr Blackwell-Morgan would promote the business. Mr Blackwell-Morgan replied that it would be largely by word of mouth and adverts in the local media.

Councillor Sarohi asked about provision for smokers. Mr Blackwell-Morgan replied that it was intended to provide a smoking shelter at the rear of the premises adjacent to the car park.

Councillor Sarohi asked if late night refreshments would still be needed. Mr Blackwell-Morgan replied that as licensable activity would cease at 11pm late night refreshment was no longer necessary. He added that it was proposed to provide food between 9am and 10pm only.

The Legal Representative (Mr Green) asked how far the smoking shelter would be from local residents' homes. Mr Blackwell-Morgan replied that the smoking shelter would be further away from homes than at the Lazy Hill Public House where patrons smoked outside the front of the premises.

Mrs Davis referred to the fact that patrons of the coffee shop/ wine bar would be unable to park on the car park because it was usually full during the day. Mr Blackwell-Morgan replied that as he was targeting local residents, most people would be able to walk to the premises. He added that cars which used the car park when it was the Co-operative store would far outweigh their use of it.

Mrs T. Jones asked where the smoking shelter would be sited. Mrs Blackwell-Morgan replied that it would be sited at the end of the garage block so that it would not affect the access to the car park.

Mrs T. Jones asked how the premises would cater for the disabled. Mr Blackwell-Morgan replied that the coffee shop/ wine bar was located on the ground floor and a disabled toilet had been included. She asked about the maximum number of patrons on the site. Mr Blackwell-Morgan replied that the maximum number possible was 150 but if the premises catered for 60 in the evening then he would be delighted.

Mrs Jones expressed concern that if the premises were open from 9am then patrons could still drink all day if they wanted to. She was also worried about the 30 minute drinking up time from 11pm. Mr Burke replied that the 9am opening would enable the cafe to cater for shift workers who wanted breakfast after working all night. The 30 minute drinking up time would allow patrons to disperse gradually after 11pm.

Mrs T Jones felt that these comments were pure speculation on Mr Burke's part. She asked if it was necessary for the premises to be open from 9am daily. Mr Blackwell-Morgan replied that it was.

Mrs Davis asked if Mr Burke had visited the site. Mr Burke replied that he had. She asked how the cafe/coffee shop/wine bar would be set out. Mrs Blackwell-Morgan replied that chairs/tables/sofas would be provided to create a relaxed atmosphere.

The parties were invited to sum up and Mrs T. Jones stated that although many of the issues had been addressed she was still concerned that the proposed opening hours (9am to 11.30pm) were over long for a residential area. She continued that noise and antisocial behaviour would remain causes for concern as would people walking past the premises with children on the way to and from school who would be affected by patrons smoking outside. She still objected to the 30 minute drinking up period after 11pm and was concerned at the increase in noise late at night when patrons left the premises.

Mrs Davis reiterated her concerns over noise nuisance arising from the premises and the dangers from traffic generated by the proposed wine bar.

Mrs G. Jones felt that parking would still be a major problem as the existing car park was always full. She would experience even more problems with congestion and pollution which would be detrimental to her family. They asked the Sub-Committee to refuse the application.

Mrs Davis asked if the premises would have designated parking spaces. Mr Blackwell-Morgan indicated that several car parking spaces at the front of the building would be designated for the Wine Bar's use.

Mr Burke commented that with the mediated conditions agreed with West Midlands Police many of the objections raised by the residents had been satisfied. He reiterated the fact that the building had been empty for two years and bringing it back in to use would be a benefit to the local community. He asked the Sub-Committee to grant the application with the mediated conditions agreed with the Police.

Councillor Worrall asked if all parties were satisfied that they had had ample opportunity to air their views. This was confirmed and the parties withdrew from the meeting at 12.05pm.

The Licensing Sub-Committee carefully considered all of the evidence submitted and the representations made during the hearing and it was

### **Resolved**

- (1) That the Sub-Committee grants the premises licence in respect of Un-wined, 198 Walsall Wood Road, Aldridge, Walsall, WS9 8HB under Section 17 of the Licensing Act, 2003 as requested together with the mediated conditions agreed with West Midlands Police; and
- (2) That the regulated entertainment and late night refreshment licence be removed from the application as agreed by the applicants.

All parties were re-admitted to the meeting at 12.28pm and informed of the Licensing Sub-Committee's decision. The parties were advised of their right of appeal to the Local Magistrates Court within 21 days of receipt of the determination.

### **Termination of Meeting**

The meeting terminated at 12.33 p.m.

Chairman.....

Date.....