

Northern Area Licensing Sub Committee

**MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING
HELD ON 5 APRIL 2022 AT COUNCIL CHAMBER - COUNCIL OFFICES,
MONKTON PARK, CHIPPENHAM, SN15 1ER.**

Present:

Cllr Kevin Daley (Chairman), Cllr Tim Trimble and Cllr Steve Bucknell (Substitute)

Also Present:

Applicant

Jason Bayliffe
Jody Gillet (Operations Manager)

Those who made a relevant representation

Representation 1 - Objection

Wiltshire Council Officers

Jemma Price (Public Protection Officer – Licensing)
Sarah Marshall (Principal Solicitor)
Andy Noble (Public Protection Officer – Licensing)
Lisa Pullin (Democratic Services Officer)

Also in attendance

Cllr David Bowler

21 **Election of Chairman**

Nominations for a Chairman of the Licensing Sub Committee were sought and it was

Resolved:

To elect Councillor Kevin Daley as Chairman for this meeting only.

22 **Apologies for Absence/Substitutions**

Apologies were received from Cllr Pip Ridout. Cllr Steve Bucknell was substituting for Cllr Ridout.

23 **Procedure for the Meeting**

The Chairman notified all those present at the meeting that it was not being recorded by Wiltshire Council, but that the meeting could be recorded by the press or members of the public.

The Chairman reminded those present that any speakers that wished to remain and make a statement to the Sub Committee would be giving consent to there being the possibility that they would be recorded presenting this.

It was noted that those that had made a representation would not be identified by name within the minutes.

The Chairman then asked if anyone present wished to withdraw from the meeting. All parties confirmed they wished to remain in and take part in the Sub Committee hearing.

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 5 to 10 of the Agenda refers).

24 **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

25 **Declarations of Interest**

There were no interests declared.

26 **Licensing Application**

Application by Jason Bayliffe for a Premises Licence in respect of The Hop Garden, Broadtown Brewery, 29 Broad Town Road, Broadtown, Swindon

Licensing Officer's Submission

The Sub Committee gave consideration to a report (circulated with the Agenda) in which determination was sought for an application for a premises licence, presented by Andrew Noble (Public Protection Officer – Licensing) for which two relevant representations had been received. One of the representations from neighbouring residents raised concerns about all of the Licensing Objectives, but in particular public safety and public nuisance. The other representation from the Senior Environmental Health Officer for Noise was withdrawn on 1 April 2022 following noise monitoring that was carried out 31 March 2022 and confirmation that proposed conditions were accepted by the Applicant, Mr Bayliffe prior to the hearing. The application was for the following licensable activities:

- Sale by retail of alcohol for the consumption ON and OFF the premises, Thursday to Sunday (to include Bank Holiday Mondays from 11:00 to 23:00).

It was noted by the Sub Committee that there were 4 options available to them:

1. Grant the licence subject to such conditions as are consistent with those included within the operating schedule submitted with the application, modified to such an extent as the Sub Committee considers appropriate for the promotion of the Licensing Objectives, together with any mandatory conditions required by the Licensing Act 2003.
2. To exclude from the scope of the application any licensable activity.
3. To refuse to specify a person as the designated premises supervisor.
4. To reject the application.

The following parties attended the hearing and took part in it:

On behalf of the Applicant

- Jason Bayliffe – Applicant
- Jody Gillet on behalf of the Applicant

Relevant Representations

- 1 local resident in objection to the application

Responsible Authorities

- The representation from the Responsible Authority (Environmental Health – Noise) was withdrawn prior to the hearing

The Chair advised that the written representations had been read and considered by the members of the Sub Committee in advance of the meeting. The Chair invited the Applicant to introduce their application.

Applicant's submission

The Applicant/s (Jason Bayliffe) spoke in support of the application, highlighting the following points:

- That they had lived in Broad Town since 2013 and in 2018 they formed the Broadtown Brewery. In February 2019 they decided to start brewing on a more commercial scale and in January 2020 they applied for a change of use to house the new brewery and fermentation vessels and this was granted in March 2020;
- In July 2020, an on and off alcohol licence was granted for the Hop Chapel, brewery and fields to the rear of the property. During the Covid period customers were able to sit outside in their 24 acres. In March 2021, the Government announced plans to enable hospitality to open covered beer gardens and areas so that public houses could offer

protection to the public and it allowed hospitality to get back on the ladder of trading;

- In April 2021 they constructed an outside marquee seating area (19m x 21m) known as the Hop Garden which would then direct customers into a specific area (restricted to half an acre) within the premises site and a specific car parking area was also allocated;
- Four live events were hosted by the premises to raise money for charity in the summer of 2021. It was felt that these events raised the spirits of the community with many customers reporting that they felt the business and the services provided were an asset to the area;
- For the over 60 days that the premises was open between April and September 2021 and no noise complaints were received by Environmental Health in relation to the premises;
- In August 2021, Allan Brown (Planning Enforcement Officer) advised the Applicant that they would need to make an application for retrospective planning permission as from December 2021 the Covid regulations would change. The Applicant submitted their planning application and ceased trading in the Hop Gardens whilst that application progressed;
- The Applicant attended Parish Council meetings to inform the village of the plans for the premises and took on board the feedback received. Many positive comments supporting their plans and what they had brought to the local community and economy were received;
- Whilst the current premises licence for Broadtown Brewery covers the 24 acres of the premises for consumption, the Hop Garden was created to minimise the areas to be used by customers and to create an enclosed controlled area for customers and reduce staff and customers walking through the car park area; and
- They instructed LCP Acoustics for advice and guidance on the noise management for the premises. The Applicant accepted the noise monitoring carried out by the Senior Environmental Health Officer on 31 March 2022 and the proposed conditions recommended by the Environmental Health Officer to manage any identified noise issues.

Sub Committee Member's questions

In response to Members questions the following points of clarification were given by the Applicant:

- The grass verge alongside the road could be used as a refuge;

- At previous events there around 200 patrons attending over the day but this would fluctuate and could mean that at one point there were 100 and then 80, etc; There were four events last year.
- 'Open mic' nights were held every other Thursday during the summer for about 4 weeks but it was felt more practice was required. The Applicant felt that 3 live events per year was enough;
- The incidental music in the Hop Garden would come via a Wi-Fi box that would sit on the outside bar with the noise levels around 34db which would provide an appropriate level of background music;
- The vision for the business was to increase the brewing up to 3000 litres per month. They were moving some of the brewing to a site in Calne so that they could grow core beers and they do the specials at the brewery. They would also look to have a more permanent structure as the current tent was weather dependent and it would benefit from being more robust – from April to September it would be open subject to the weather;
- It was appreciated that the noise readings taken in March may be different to those taken in the summer and that voices may carry further but they would work with the acoustics experts and with the Environmental Health Noise Officers to carry out the work they proposed and see that as a minimum measure they would take. They had formed a local residents committee and any events that were proposed in the future would be planned by the committee and there would be noise checks and an emergency contact number available for residents to report any problems and these would be actioned straight away;
- The Hop Garden area was 19m x 21m with a bar in the centre and tables and chairs around it. They used an intelligent booking system (called Ecwid) for the seating on the decked area and last year this had a maximum of 62 patrons. This set control measure where they could check on dietary requirements and parking information;
- The feedback received was that should be a maximum of 70 on the decked area including 4/5 staff;
- There was no kitchen at the premises and different vendors attend for events. They have 'take away nights' where the food is delivered to the premises.
- Patrons are asked to book and as the car park is marshalled, they would only be granted access if they had booked or there was capacity for walk ins which would be monitored throughout the day. They had not experienced people turning up and not being able to get in and the charging facility on the booking system was not used.

Questions from those who made a relevant representation

In response to questions from those that had made a relevant representation, the following points of clarification were given:

- The premises' alcohol licence had not expired, the current premises licence continues to renew as long as the annual fee is paid by the applicant.
- The monitoring of the numbers of those on the premises whether they are sitting in the field area or into the premises is managed by the Ecwid booking system;
- The aims of the business were to provide a positive experience for customers. Overfilling the capacity does not help with this so they don't overbook or over fill their capacity and a head count is taken of those on the premises;
- Walk ins were accepted and they have seats for all based on what is available at the time.

The resident asking questions of the Applicant and started to refer to the seating available outside of the Hop Garden but was reminded that they could only consider the application within the proposed licensing areas and shown as submitted.

Responsible Authorities' submissions

There were no representatives of Responsible Authorities present.

Submissions from the local resident who made a relevant representation

Rep 1

- The major effect on them was the PA system, the live events and the serving of alcohol as they lived 500m away. They could hear music from the premises inside their house. The quiz nights were annoying and loud and disturbed them whilst they were watching TV. They also worked with companies in America meaning they could be working into the evening and be disturbed by noise from the premises;
- They felt that critical documents were not shared with them by the Applicant and they did not have access to the acoustics report until a week ago;
- The PA system used by the premises could be heard as an audible conversation at 55 – 60db and that all words of songs could be heard clearly from their premises and they felt that if this sound was recorded at source this would be 110-120db which would be the equivalent to a Rock

concert and felt that this would cause harmful noise levels to those living close to the premises, particularly those at 28 Broad Town Road;

- The LCP acoustics say that the sound on the PA system was detected up to 97db but this was not really what they were hearing. They were in disbelief that an open crowded decked area serviced by the Hop Garden was allowed as it was so close to residents some only 40m away. Sustained exposure of loud noise could result in hearing loss and there was also noise from the diesel generator and it was felt that this would cause harmful noise levels for those living at Broad Town Road;
- The noise readings taken by the Noise Consultant in February 2022 and by the Senior Environmental Health Officer on 31 March 2022 did not reflect the usual noise that would be created by children, people eating and crowd related noise and whilst the Senior Environmental Health Officer had considered 80 patrons to be an acceptable number to be using the outdoor seating area they believed that the reduction to 80 (from 150) patrons would still disturb the nearest neighbours who were only 40 metres away from the premises;
- Concerns over harm to children could be solved by no sales of alcohol being permitted until an hour after the local schools had closed;
- The premises were causing nuisance to their neighbours and a quiet rural village was not a suitable location for this facility.

The local resident also made reference to a number of issues relating to highways, parking, planning and food safety but was informed at the hearing by the Public Protection Officer – Licensing that these issues could not be considered by the Licensing Sub Committee.

Sub Committee Members' questions

In response to Members questions the following points of clarification were given:

- In response to a question about them making a formal noise complaint to Environmental Health, the local resident confirmed that whilst they had not made a formal complaint, they were aware of a neighbour making a complaint and working with Environmental Health at the current time. When they first heard a disturbance, they were initially unable to locate the source of the noise and felt it was so loud that it must be a nearby house party. It was only at the last event held by the premises that realised when the sound was coming from more than half a kilometre away. Since that time they had not been disturbed by the premises during the winter months and were aware that residents were being advised to keep a log of any disturbance caused. However they have not made any noise complaints against the Broadtown Brewery.

Jemma Price (Public Protection Officer – Licensing) confirmed that no noise complaints had been received in relation to the Broadtown Brewery premises.

Questions from the Applicant:

The Applicant did not wish to ask any questions.

Closing submissions from the local resident who made relevant representation

In their closing submission, the local resident that made a relevant representation in objection to the application highlighted the following:

- The Hop Gardens was a nice idea but poorly planned and badly executed. The application should be refused and should not be in a quiet rural pub garden as it was not in character for the surrounding gardens; and
- The Applicant thinks he is better than us – if this moved into your village and next to your house, I would ask you to hold him to same standards and get him to sort it out.

Applicant's closing submission

The Applicant chose not to make a closing submission but asked a member of his apparent supporting party to comment. However at the conclusion of her submission it was evident this she was a villager obviously in support of the Applicant but not a party to the hearing who was providing a summary on behalf of the Applicant.

Points of Clarification Requested by the Sub Committee

No points of clarification were requested by the Sub Committee.

The Sub Committee then adjourned at 11.20am and retired with the Senior Solicitor and the Democratic Services Officer to consider their determination on the licensing application.

The Hearing reconvened at 12.15pm.

The Senior Solicitor advised that she gave the following legal advice to the Sub Committee

- That they were not able to consider any issues raised concerning food safety, planning and highway matters and any representations that were not concerned with the licensing application and the promotion of the licensing objectives.
- That they should completely disregard the summary evidence provided by a villager on behalf of the Applicant because it was felt that they had

not provided a summary for the Applicant nor were they a representative of the Applicant.

- Were advised to disregard any comments made by attendees leaving the hearing after the adjournment at 11.20am.
- Were advised to disregard the email that they had been sent (prior to the hearing) by another local resident who was not a party to the hearing.

Decision:

Arising from consideration of the report, the evidence and submissions from all parties and having regard to the Statutory Guidance, the Council’s Statement of Licensing Policy and the Licensing Act 2003 the application for a Premises Licence in respect of The Hop Garden, Broadtown Brewery, 29 Broad Town Road, Broad Town, Swindon be granted for the licensable activities show below in the table and subject to the relevant conditions offered by the Applicant, together with the following additional conditions as recommended by the Senior Environmental Health Officer (incorporated below)

Licensable Activities	Days	Timings
Sale by retail of alcohol for consumption ON and OFF the premises	Thursday to Sunday (To include Bank Holiday Mondays)	11:00 – 23:00

Conditions

Prevention of Public Nuisance

1. A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours in the surrounding vicinity.
2. Clear and legible notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and to leave the vicinity as quickly and quietly as possible.
3. No deliveries (in relation to licensable activities) to the premises shall take place between 18:00 hours and 07:00 hours.
4. All waste shall be properly presented and placed out for collection. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 22:00 hours and 07:00 hours on the following day.

5. A sufficient number of suitable receptacles will be located in appropriate locations for the depositing of waste materials such as food wrappings, drinks containers, smoking related litter by customers.
6. A telephone number shall be made available for neighbours and local residents to contact in the case of noise-nuisance or anti-social behaviour by persons or activities associated with the premises. The telephone number will be a direct number to a member of staff on site at the time. A record will be kept by management of all calls received, including the time, date and information of the caller, including action taken following the call. Records will be made available for inspection and copying by an authorised officer of a responsible authority throughout the trading hours of the premises.
7. Taxi operator's telephone numbers will be advertised to customers. The operators will be advised that drivers should arrive and depart as quietly as possible, should not sound vehicle horns as a signal of their arrival or leave engines idling unnecessarily.
8. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
9. The premises will ensure all staff leave the premises quietly at the end of their shifts and so as to avoid causing disturbance or nuisance to local residents.
10. In the absence of adequate daylight, artificial lighting in any area accessible to the public shall be fully operational whilst the public are present. All exits/entrances will be kept clear at all times.
11. The collection of glasses and bottles shall be undertaken at regular intervals.
12. All internal and external doors, fixtures and fittings, lighting and emergency lighting will be kept in good working order and regular checks made. Lighting will be available in the car park area.
13. The premises shall engage an acoustician to advise on suitable mitigation measures specific to controlling noise from the hop garden including the structure that contains the bar/seating area. The mitigation is to include the following:
 - i) Installation of a properly designed and constructed noise barrier that is capable of providing at least 5dB sound attenuation to protect the nearest residential receptor from noise occurring within the hop garden bar structure. This acoustic barrier is to be erected in full by Friday 5th August 2022.
 - ii) A noise management plan to set out noise controls for dealing with noise from patrons who are using the hop garden to minimise any noise impact from patrons on the nearest residential receptor.
 - iii) The noise controls should include target sound levels at key monitoring points close to the boundary with residential premises to allow Broad Town Brewery to undertake their own validation sound monitoring using a sound level meter at regular intervals to ensure that noise controls are working. Source measurements shall be undertaken as LAeq levels over a 15-minute integration period to

encapsulate the fluctuating nature of human speech over a reasonable time window.

- iv) A plan must be included to show the location where monitoring is to take place. Written/aural observations shall also be made at this monitoring location by a member of staff. These observations must relate to both music and people noise. Notes shall be made on what corrective actions are taken if monitoring confirms target levels are exceeded.
- v) The bar speaker shall not exceed 70dBA at source.
- vi) The maximum numbers of patrons who use the timber framed bar area must not exceed 80 persons between the hours of 6pm and 10pm.
- vii) The premises must engage an acoustic expert to assist them comply with items 13i to vi above. The acoustic expert shall produce a noise management plan to incorporate items i. to vi. to be submitted to the council's Senior Environmental Health Officer by 5th June 2022 and implemented in full thereafter.

Public Safety

- 14. All bar staff, supervisors and managers will be trained in the legality and procedure of alcohol sales to Level 1 Responsible Alcohol Retailing Training or similar. All training shall be signed and documented. Training records will be kept on the premises and be made available for inspection.
- 15. The documentation relating to training will extend back to a period of three years and will specify the time, date and details of the persons both providing the training and receiving the training.
- 16. All staff engaged in licensable activity at the premises will receive training and information in relation to the following:
 - i) The Challenge 25 Policy including the forms of identification that are acceptable;
 - ii) The hours and activities and conditions permitted in the premises licence,
 - iii) How to complete and maintain the refusal register in operation at the premises,
 - iv) Recognising the signs of drunkenness,
 - v) The operating procedures for refusing service to any person who is drunk, under-age or appears to be under-age, or
 - vi) appears to be making a proxy purchase,
 - vii) Action to be taken in the event of an emergency, including reporting an incident to the emergency services.
- 17. Training shall be recorded in documentary form and shall be regularly refreshed every year. Training records shall be made available for inspection.
- 18. We will adhere to the Portman Group Code of Practice for the promotion of alcoholic drinks and follow the Home Office guidance on selling alcohol responsibly. A drink, its packaging and any promotional material or activity will not in any direct or indirect way appeal to under 18s or incorporate images of people who are or look as if they are under 25 years of age where there is any suggestion that they are drinking alcohol.

19. There shall be a responsible trained person on duty at the premises at all times when the premises are open and selling alcohol.

Protection of Children From Harm

20. There will be in place a written age verification policy in relation to the sale or supply of alcohol, which will specify a Challenge 25 policy. The poster will be on display. All staff working at the premises will ask individuals who appear to be under 25 years of age, attempting to purchase alcohol, to produce identification. The only acceptable identification documents will be:
 - A photo driving licence
 - A passport
 - An identification card carrying the PASS hologram

Unless such identification is produced the sale of alcohol will be refused.

21. The age verification policy will include documented steps taken to prevent adults from purchasing alcohol for or on behalf of children under 18 (proxy sales).
22. An alcohol sales refusal register shall be kept at the premises and be maintained to include details of all alcohol sales refused. The refusals register will be made available for inspection.
23. Children over 16 years of age will be allowed unaccompanied on the premises, under 16's will be accompanied by an adult over 18 years of age.
24. No children under the age of 18 years of age will be allowed on the premises after 21:00 hours.

Prevention of Crime and Disorder

25. An incident log shall be kept and maintained at the premises which will include the time and date of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident. The logs shall be kept for at least 12 months following the date of entry and be made available for inspection.
26. Premises checks will occur at regular intervals throughout opening hours.
27. Open containers of alcohol shall not be removed from the premises.
28. All alcohol on display will be in such a position so as not to be obscured from the constant view of staff.
29. A written drugs policy shall be in place and operated at the premises.
30. The CCTV system which is registered with and complies with the Information Commissioner's Office guidance is monitored and operated by Jason Bayliffe. The CCTV GDPR policy will be made available for inspection. The system has a 31-day recording facility. Clear signage stating that CCTV is in place will be displayed.

Reasons:

In reaching its decision, the Sub Committee took account of and considered all the written evidence and the representations from all parties and the oral

submissions received from the Applicant, the Applicant's representatives and a resident who made a relevant representation at the hearing.

The Sub Committee noted the concerns raised by the resident at the hearing but considered that the Applicant had provided sufficient evidence that the licencing objectives would be promoted in particular relating to public nuisance, with regards to the noise – in particular that the Applicant had accepted the recommendations offered by the Senior Environmental Health Officer and management of the numbers attending the premises. The Sub Committee heard no evidence that the Applicant would fail to promote the licensing objectives and no evidence of noise complaints was placed before the Sub Committee. The Applicant acknowledged that he was willing to work with the local residents to alleviate any concerns.

The Sub Committee were not able to consider any issues raised concerning food safety, planning and highway matters and any representations that were not concerned with the licensing application and the promotion of the licensing objectives.

The Sub Committee completely disregarded the summary provided by a villager on behalf of the Applicant because the Sub Committee did not consider that person had provided a summary for the applicant nor was a representative of the applicant.

The Sub Committee also disregarded all comments made by attendees leaving the hearing after the adjournment of the hearing at 11.20am.

The Sub Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the four Licensing Objectives; the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

Right to Appeal:

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of the written decision. In the event of an appeal being lodged, the decision made by the Licensing Sub Committee remains valid until any appeal is heard and any decision is made by the Magistrates Court.

A Responsible Authority or interested party has the right to request the Local Authority to review the licence in accordance with the provisions of section 51 of the Licensing Act 2003. However, a review will not normally be held within the first twelve months of the licence.

(Duration of meeting: 10.15 am - 12.20 pm)

The Officer who has produced these minutes is of Democratic Services, direct line 01225 713015, e-mail committee@wiltshire.gov.uk

Press enquiries to Communications, direct line ((01225) 713114 or email communications@wiltshire.gov.uk