

# AGENDA FOR

## LICENSING HEARING SUB COMMITTEE



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**To: All Members of Licensing Hearing Sub Committee**

**Councillors:** S Walmsley (Chair), J Grimshaw and  
G Marsden

Dear Member/Colleague

### **Licensing Hearing Sub Committee**

You are invited to attend a meeting of the Licensing Hearing Sub Committee which will be held as follows:-

<b>Date:</b>	Tuesday, 15 November 2022
<b>Place:</b>	Virtual meeting via Microsoft Teams
<b>Time:</b>	2.00 pm
<b>Briefing Facilities:</b>	If Opposition Members and Co-opted Members require briefing on any particular item on the agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
<b>Notes:</b>	To view the virtual meeting online, please email m.cunliffe@bury.gov.uk or phone 0161 2535399 who will provide you with a link to view the meeting via MS Teams or telephone you into meeting with the option of audio only.

## **AGENDA**

### **1 APOLOGIES FOR ABSENCE**

### **2 DECLARATIONS OF INTEREST**

Members of the Licensing Hearing Sub Committee are asked to consider whether they have an interest in any matter on the agenda, and, if so, to formally declare that interest.

### **3 APPLICATION FOR A VARIATION TO A PREMISES LICENCE UNDER THE LICENSING ACT 2003 IN RESPECT OF LIFE BABY SCANNING AND GIFTS, 109 PARR LANE, UNSWORTH, BL9 8JN (*Pages 3 - 22*)**

Report from the Executive Director (Operations) is attached:-



<b>Classification</b>	<b>Item No.</b>
Open	

<b>Meeting:</b>	Licensing Hearings Sub-Committee
<b>Meeting date:</b>	15 November 2022
<b>Title of report:</b>	Application for a Variation to a Premises Licence under the Licensing Act 2003 in respect of Life Baby Scanning and Gifts, 109 Parr Lane, Unsworth, BL9 8JN
<b>Report by:</b>	Executive Director (Operations)
<b>Decision Type:</b>	Council
<b>Ward(s) to which report relates</b>	Besses

### Executive Summary:

This report relates to an application to vary a Premises Licence under section 34 of the Licensing Act 2003 in relation to Life Baby Scanning and Gifts, 109 Parr Lane, Unsworth, BL9 8JN. Four representations have been received which consist of one from Environmental Health in their capacity as a responsible authority and three representations have been received from interested parties.

### Recommendation

#### Options & recommended option

- To refuse the application
- To grant the application in the terms requested
- To grant the application subject to conditions
- To amend or modify existing or proposed conditions

### Key considerations

This is a Council Function that is delegated to the Licensing and Safety Panel by the Council's Constitution.

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**Community impact / Contribution to the Bury 2030 Strategy**

Not applicable

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**Equality Impact and considerations:**

A GM-wide Equality Impact Assessment has been undertaken and a copy is available on request.

*Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:*

*A public authority must, in the exercise of its functions, have due regard to the need to -*

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

*The public sector equality duty requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.*

*The Licensing Service have considered the Equality Act 2010 and due to each application being dealt with on its own merits there is no positive or negative on any of the protected characteristics*

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**Assessment of Risk:**

The following risks apply to the decision:

<b>Risk / opportunity</b>	<b>Mitigation</b>
Not applicable	

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**Consultation:**

Not applicable

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## Legal Implications:

Under the legislation the Council is required to determine representations. The report is in accordance with the appropriate legislation.

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## Financial Implications:

The cost of the licensing function are funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.

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## Report Author and Contact Details:

M Bridge  
Licensing Unit Manager  
3 Knowsley Place  
Duke Street  
Bury  
BL9 0EJ      Tel: 0161 253 5209    Email: [m.bridge@bury.gov.uk](mailto:m.bridge@bury.gov.uk)

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**Please include a glossary of terms, abbreviations and acronyms used in this report.**

Term	Meaning
DPS	Designated Premises Supervisor

## Background papers:

Application form  
Representations received  
Current Premises Licence  
Bury Council's Licensing Policy  
Guidance issued under Section 182 of the Licensing Act 2003  
Licensing Act (Hearings) Regulations 2005

## 1.0 BACKGROUND

- 1.1 The Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations are the relevant legislation.
- 1.2 The Panel will make a decision on the day of the hearing and the parties will be notified subsequently of the decision and the reasons for it by letter from the Licensing Office.

## 2.0 INTRODUCTION

- 2.1 The applicant for the licence in respect of the above premises is Mumson Limited, Unit 22, Carrioca Business Park, 2 Sawley Road Manchester, M40 8BB, Miss Anna Theresa Morrison is the Designated Premises Supervisor (DPS) at these premises.

- 2.2 The applicant has complied with all the necessary procedural requirements laid down by the Act.
- 2.3 As part of the statutory process the Responsible Authorities and interested parties are entitled to make representations in relation to the grant of a licence. Where representations are made and not withdrawn Members are required to determine them.
- 2.4 Representations must be relevant to the licensing objectives defined within the Act. The objectives are:-
- the prevention of crime and disorder
  - public safety
  - prevention of public nuisance and
  - protection of children from harm

### **3.0 THE APPLICATION**

- 3.1 The application is for the Variation of a Premises Licence under Part 3 of the Licensing Act 2003:

**The Current operating schedule shows the following:**

#### **Supply of alcohol – For consumption Off the Premises.**

Monday to Sunday                      09.00 to 21.00

#### **Hours open to the Public**

Monday to Sunday                      09.00 to 21.00

### **3.2 Proposed Variation – Opening Hours**

#### **Supply of alcohol – For consumption On/Off the Premises.**

Monday to Thursday	09.00 to 22.00
Friday to Sunday	09.00 to 23.45
Christmas Eve	23.00 to 00.30
New Years Eve	23.00 to 02.00
Easter Holidays	23.00 to 00.30
Bank Holiday Weekends	23.00 to 00.30

#### **Performance of Live Music (Indoors)**

Friday to Sunday	23.00 to 23.45
Christmas Eve	23.00 to 00.30
New Years Eve	23.00 to 02.00
Easter Holidays	23.00 to 00.30
Bank Holiday Weekends	23.00 to 00.30

#### **Provision of Recorded Music (Indoors)**

Friday to Sunday	23.00 to 23.45
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Christmas Eve	23.00 to 00.30
New Years Eve	23.00 to 02.00
Easter Holidays	23.00 to 00.30
Bank Holiday Weekends	23.00 to 00.30

## **Provision of Late night Refreshment**

Friday to Sunday	23.00 to 23.45
Christmas Eve	23.00 to 00.30
New Years Eve	23.00 to 02.00
Easter Holidays	23.00 to 00.30
Bank Holiday Weekends	23.00 to 00.30

## **Hours open to the Public**

Monday to Thursday	09.00 to 22.00
Friday to Sunday	09.00 to 23.45
Christmas Eve	23.00 to 00.30
New Years Eve	23.00 to 02.00
Easter Holidays	23.00 to 00.30
Bank Holiday Weekends	23.00 to 00.30

- 3.3 It should be noted that the timings on this licence predate the implementation of the Live Music Act 2012 which now permits the premises to have regulated entertainment (Live Music and Recorded Music) Monday to Sunday between 8.00 until 23.00.

## **4.0 REPRESENTATIONS FROM ENVIRONMENTAL HEALTH**

- 4.1 Environmental Health have made representations in their capacity as a Responsible Authority. They have requested conditions contained at Appendix 1.

## **5.0 REPRESENTATIONS FROM INTERESTED PARTIES**

- 5.1 Three relevant representations have been received from interested parties against this application a summary of this is detailed below:-

- Parking
- Opening hours unacceptable and a concern
- Live Entertainment
- Anti-social Behaviour
- Need
- Loitering
- Noise from people leaving
- Taxis beeping horns.

- 5.2 The representations are attached at Appendix 2.

## **6.0 THE SECRETARY OF STATES GUIDANCE TO THE LICENSING ACT 2003**

- 6.1 The Secretary of State's Guidance to the Licensing Act 2003 is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit

of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.

- 6.2 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The Guidance is therefore binding on all licensing authorities to that extent. However, the Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons.
- 6.3 Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

## 7.0 CONCLUSION

- 7.1 A licensing authority must carry out its functions under this Act ("licensing functions") with a view to promoting the licensing objectives:
- the prevention of crime and disorder
  - public safety;
  - the prevention of public nuisance; and
  - the protection of children from harm.
- 7.2 In reaching the decision, regard must be had to relevant provisions of the national guidance and the Council's licensing policy statement.
- 7.3 The Sub-Committee must consider what steps are appropriate for the promotion of the licensing objectives.
- 7.4 In making its decision with regard to this variation hearing, the steps the Sub-Committee can take are:
- To refuse the application
  - To grant the application in the terms requested
  - To grant the application subject to conditions
  - To amend or modify existing or proposed conditions
- 7.5 All licensing determinations should be considered on the individual merits of the application.
- 7.6 The Sub-Committee's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. Findings on any issues of fact should be on the balance of probability.
- 7.7 It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal.
- 7.8 The Sub-Committee is asked to determine what steps, as set out in 7.4 above, are



appropriate for the promotion of the licensing objectives.

Appendix 1

Bury Metropolitan Borough Council

[The Licensing Act 2003](#)

## **Responsible Authority Representation Form**

<i>Section 1 - Application Details</i>	
<p><b>We object to the following Application:</b></p> <p>The premises is changing from online and in store sale of alcohol to a coffee shop/bistro. We want our main focus to be day time and early evening. Customers will be able to sit in and order food with soft, hot or alcoholic drinks.</p> <p>Provision of Live Music (indoors only):</p> <p>Friday to Sunday – 23:00 till 23:45</p> <p>Christmas Eve, Easter Holidays and Bank Holiday weekends – 23:00 till 00:30</p> <p>New Years Eve – 23:00 till 02:00</p> <p>Provision of Recorded Music (indoors only):</p> <p>Friday to Sunday – 23:00 till 23:45</p> <p>Christmas Eve, Easter Holidays and Bank Holiday weekends – 23:00 till 00:30</p> <p>New Years Eve – 23:00 till 02:00</p>	
<p>Type of application.</p> <p>Variation of Premises Licence</p>	
Application Number (if known):	

<i>Section 2 – Responsible Authority's Details</i>
<p><b>Responsible Authority's Details:</b></p>

Please tick appropriate box:	
<input type="checkbox"/>	Police
<input type="checkbox"/>	Fire Authority
<input type="checkbox"/>	Planning Authority
<input type="checkbox"/>	Health and Safety
<input checked="" type="checkbox"/>	Environmental Health Service
<input type="checkbox"/>	Child Protection
<input type="checkbox"/>	Weights and Measures
<input type="checkbox"/>	Licensing Authority
<input type="checkbox"/>	Immigration
<input type="checkbox"/>	Public Health Department
Full name:	Michael Jay Neatis
Job Title:	Senior Environmental Health Officer
Tele number:	0-161 253 5519
Email:	m.neatis@bury.gov.uk
Address:	
<p>3 Knowsley Place</p> <p>Bury</p> <p>Lancashire</p>	

Section 3 – Representations	
<input type="checkbox"/>	We object to the application being granted at all
<input checked="" type="checkbox"/>	We object to the application being granted in its current form*
<p>*If you choose this option remember to tell us in section 3B what changes you would like to see.</p>	

You need to complete the boxes below as fully as possible. If you do not then the Licensing Sub-Committee may not understand why you have made a representation (objection).

Please attach supporting documents/further pages as necessary. Please number all extra pages and add the applicant's name and your name to each page.

### **Section 3A – The Objectives**

To prevent crime and disorder	Please state your reasons:
Public safety	Please state your reasons:
To prevent public nuisance	<p><i>Please state your reasons:</i></p> <p>There are residential properties located immediately above the applicant's premises, and there is a significant likelihood that the occupants of these residencies will be able to hear the music from downstairs. This will potentially lead to noise nuisance complaints being made.</p>

The protection of children from harm	<i>Please state your reasons:</i>

**Section 3B – Suggestions/Further information**

No live music permitted.

Provision of recorded music (indoor only) to finish at 2100 hrs.

Signed: ...Michael Neatis..... Dated: 06/10/2022

N.B if you do make a representation, you will be expected to attend the Licensing Sub-Committee hearing and any subsequent appeal proceedings.

## Appendix 2

### Objector 1

Thank you for your quick response.

I would like to make an objection on the grounds of Public Nuisance.

This is a mainly residential neighbourhood.

- There is already a pub about 5 doors away from these premises, which already attracts disorderly behaviour and causes a nuisance, mainly to people living on Pole Lane, or in the flats directly opposite the pub.
- There are currently 2 schools (soon to be 3) and the students from Unsworth Academy cause problems for the flat residents, with anti-social behaviour, running through the car park and blocking the road and pavement access. This will increase, as the bistro will provide them with an additional reason to loiter.
- There was a café where Miami Pizza is now, and it failed, no small part due to the lack of parking in the area.
- There was also a café on Sunnybank Road, which also closed due to lack of patronage.
- There are terrible problems already with the parking at Unsworth Pole. There are double yellow lines outside Berrys, which no one adheres to. The street parking is limited to a maximum of 1 hour. There is a car park behind the Bay Horse which is Pay & Display which no one ever uses. The only other parking is our private car park, which there is a very real possibility that people will try to park there. It is already difficult to drive up Pole Lane past the shops due to cars being parked on both sides of the road.

I am happy to discuss my objection with you further.

Many Thanks

### Objector 2

Dear Sirs

I refer to the above application for a change of premises and an application to sell alcohol and play music . I also understand that opening hours on the weekend will be until 2.00 a.m

I am a local resident living very close to the proposed premises.

I object for the following reasons

1) There are already 2 licensed premises in the vicinity which are both licensed for music and have there own car parking facilities.

The new premises has no parking facilities and therefore patrons will be using the nearby side roads creating more traffic for residents on nearby Pole Lane and around Unsworth Pole.

2) It will also create more noise. Shouting from patrons leaving and taxis beeping their horns as they do so now outside the Bay Horse.

### Objector 3

i wish to object to these changes being made for the following reasons

Parking....

there is NO parking availability outside or nearby apart from the Bay Horse car park which the brewery charge for. I live at 110 Parr Lane directly opposite 109. I am in a end property with School Close at the side of my house. Cars frequently park there day and night and is used by other residents as they cannot park outside their own homes due to yellow lines. I feel School Close will end up as a parking zone which will prove dangerous due to it being quite narrow and already having yellow lines on one side. The area in front of , and around the Pole is always very busy with parking

There is a primary school at the top of Sunnybank Road and also an entrance on School Close hence it is Very busy at the roundabout on Parr Lane ....parents picking up their children and hence parking is already a Big issue.

I have been informed the present owners wish to change their existing premises From Baby Scanning to a tea room however live entertainment and their opening hours especially are not acceptable.....shorter hours and parking facilities are needed .

Parr Lane is already congested and speeding is a big issue .

The late opening hours are of concern and there is already a Pub in the immediate area .

Yours sincerely



**Re: Life Baby Scanning - Licensing Hearing Sub Committee Meeting**  
**Tuesday 15th November 2.00pm.**

Here is some information on my background and as to why I have applied for a variation to my already existing premises license.

I run a business on Unsworth Pole called Life Baby Scanning. We took on the lease and invested an enormous amount of money into the business setup and remedial works to the building due to poor disrepair. Our current business is of a niche nature and the industry accumulates significant costs due to clinical obligations. We have had the premises now for 3 years. Unfortunately, we have experienced severe leaks within the premises over the past 10 months. Which has resulted in the ceiling collapsing in the reception area and the flooring throughout the building being totally ruined and unable to be salvaged.

After a long battle with the insurance they have agreed to reinstate part of the ceilings and flooring, however they are very reluctant about loss of earnings and so on. The extent of the damage resulted in no other option but to close the business on Sunday 21st August. This was to enable the contractors to commence however, since work got under way, through intrusive surveys, there is further damage which we were unaware of, as this was not visible. Therefore, not covered within commercial budgets nor factored into the overall length of the construction programme. This has meant our business has been closed longer than planned which has incurred further costs onto myself.

We have had to seriously re-assess our business and review the detrimental impact due to the length of closure and how long it is going to take to rebuild our business and recoup debt due to on-going running costs. It would be the equivalent to starting all over again, in a business sector where now a number of competitors have opened within the area.

Being tied into a lease, and having staff we feel committed to continuing with their employment, we have had to prepare for a plan B. We have been very critical of the area and assessed what would improve the parade on the pole? We have bravely decided a coffee shop to bring the community together, would be greatly welcomed and become a bit of a community hub.

We have big plans to do a variety of coffee mornings to reach out to all ages within the community. So far we have had amazing support and encouragement. After the isolation of COVID19 and now the current state of financial affairs everyone is facing in their everyday life, coming together as a community and ensuring you are running a business where people with all budgets big and small can access is crucial. Not only financially but for peoples mental health also.

There are a lot of lonely people within our community where the person who serves them in a shop or they say good morning to in the street may be the only person they speak to all day. I always go out of my way to make people feel welcomed and where necessary appreciated.

To move the coffee shop forward we have had to apply for a variation to the premises license, that we already had. I think a lot of people in the area were unaware we already had a premises license, until we displayed the blue notice to amend it. This, we feel, is what has scared some of the more elderly people in the immediate area and was the catalyst to the objection to the changes.

As we are aware when applying for a alcohol license you have to complete possible times for example New Years Eve and so on, which does not necessarily mean you intend to use them. They are a requirement when applying and have to be stated on the application.

A couple of elderly ladies approached the electrical contractor in a very aggressive manner :) and told him not to bother carrying out the work, as they were starting a petition to stop the opening of a late bar and nightclub (which it most definitely will not be). We fully understand where they are coming from and sometimes when you have not got the full information about changes being made within the area you live, it can be quite daunting. This then becomes the point when people may jump to the wrong conclusions, which is what we feel has happened in our case.

I immediately reacted when the contractors made me aware of the statement the ladies made and we responded by putting a statement on Unsworth and Whitefield Facebook. Here we received positive feedback and a lot of people wishing us well. We also immediately put together a further notice reassuring people about our intentions and put it up under the blue notice on the exterior of the building so that it was available at all times for everyone to read.

We wanted to reassure everyone concerned this is going to be a family run, local and independent business with the heart of the community firmly within our sights. We want to be able to continue trading on Unsworth Pole and not become another business that closes down. Especially in this very uncertain economic climate we currently live in. Times are hard and even harder when you are self-employed and don't know when your next pay pack is coming from. However we are being brave taking on this change and continuing to invest in Unsworth. However we are prepared to do it and think the Unsworth area is worth it.

So after that very long-winded explanation of why we have moved to Plan B there it is. I need the help and support of the people objecting by way of understanding we are just going to be a warm and welcoming venue with nice food, locally made cakes, amazing friendly staff, easy listening music and definitely not late nights or loud music. As I mentioned earlier we are a family run business and we enjoy spending time with our families, so unfortunately late nights will not be for us.

I hope the above covers it. If you need any further information from me please be in touch.

**STATEMENTS FROM LOCAL BUSINESS OWNERS TO SUPPORT  
THE VARIATION TO LIFE BABY SCANNING PREMISES LICENSE**

**BARBERS SHOP 111 PARR LANE, UNSWORTH.**

Hi my name is Kate I am the business owner of the barbers shop on Parr Lane I hope this little piece of info and support will be put forward to Bury Council to try and help secure Anna from Life Baby Scanning to get the changes she needs to her license. This would be a great addition to our row of shops and give them a second chance of making their business work. I speak to many customers who are all from the local area and always get positive feedback. We are excited for it. Good Luck X

**SUNNYBANK FLORIST 107 PARR LANE, UNSWORTH**

I am the owner of Sunnybank Florist my name is Emma Nutton myself and my staff and fully supportive and excited by the idea of having the coffee shop and eatery in Life next door. I cannot believe it has gone to an appeal! When Life clinic was affected by the flood we were also affected but in a very small way compared to Life. They took the impact of the flood and it went on to really damage their clinic. So I do feel it is their time now to make it work. We have heard nothing but good positive vibes from the locals who come in my florist. We think it is great that Anna plans to use local bakers to make her specialty cakes and as much as possible she seems to be focusing on local people. We will definitely be supporting her and are looking forward to a coffee and a cake 😊.

**HAIR COUTURE 105 PARR LANE, UNSWORTH**

I have been a business owner on Unsworth Pole for 10 years now and have seen a number of businesses in 105 (where Life Baby Scanning are) come and go. None of which who seemed to invested, survived or completely changed the overall look of the

shop front quite like Life Baby Scanning did, theirs looks fab. They have already by the look of the shopfront and the inside of the shop invested a lot of money. It is a shame what has happened to them with the leak. As corny as it sounds, they have encouraged and inspired my salon and a number of other businesses on the pole to improve the exterior and interior of their buildings. Personally I cannot wait to take my staff for team/one to one meeting in there. Also our customers are excited; as we have already approached Anna to ask if you would do a little take out menu for our customers. As when they are in for long periods of time having colours and so on done, this would be a welcomed treat for them and good for our business. We take our hat off to them for doing something different. It is really needed on the row and at times like these it is really difficult and as self-employed people we all need to support each other and stick together.  
Business Owner Leanne Johnson

**Additional information received from the applicant**

**Email Support 1**

To whom it may concern

My Name is XXXXXX

I live at number XXXXXXXXX

I am really excited about the new opening of a coffee shop / wine bar.

As I have a disabled husband that is in a Wheelchair and we are looking forward to be able to walk there and a nice lunch or coffee and be able to meet local residents as make new friends as we dont really have much of a social life due to my husband be wheelchair bound it would be good for the community to meet and discuss any local issues as well especially now with Martins cafe being closed this is it what is definitely needed especially for the elderly as well that actually dont drive it is a great idea to meet and not being stook in looking at there 4 walls .

I back this 100% to go ahead.

**Email Support 2**

Dear Anna,

I have recently been made aware that there has been an objection raised against you opening your coffee shop at Unsworth Pole, and felt I needed to write this email to lend my support and give you a view from my perspective.

I have been an Unsworth resident for the past 23 years and at various times there has been several cafes/coffee shops around the Pole, Sunnybank Road and Hollins. These bases created a heart for the community and was a great meeting place especially for the elderly in the area and as a result have been sadly missed over more recent years. I have spoken to a number of my friends and neighbours and we all agree that the area is crying out for this coffee shop and as a result they would all lend their support should you require it.

It is important that local business people like yourself continue to invest in the community so that Unsworth Pole maintains its personality and doesn't become just another UK High Street with Costa Coffee/Starbucks, charity shops and empty premises.

I hope you manage to get things sorted and open in the not too distant future, after which you can count on my custom.

Best Wishes

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