

BIRMINGHAM CITY COUNCIL

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| LICENSING SUB COMMITTEE C 3 JULY 2019 |
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**MINUTES OF A MEETING OF
LICENSING SUB COMMITTEE C
HELD ON WEDNESDAY 3 JULY 2019
AT 0930 HOURS IN ELLEN PINSENT ROOM,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Nicky Brennan in the Chair

Councillors Mike Sharpe and Neil Eustace

ALSO PRESENT

Shaid Yasser, Licensing Section
Joanne Swampillai, Committee Lawyer
Errol Wilson, Committee Manager

NOTICE OF RECORDING

1/030719 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

DECLARATIONS OF INTERESTS

2/030719 Members were reminded that they must declare all relevant and pecuniary and non-pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations to be recorded in the minutes of meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/030719 None submitted.

MINUTES

4/030719 That the Minutes of the meetings held on 3 May 2019; 8 May 2019 and the 30 May 2019 were confirmed and signed by the Chair.

**LICENSING ACT 2003 PREMISES LICENCE - VARIATION SID'S OFF
LICENCE, 284 ALCESTER ROAD SOUTH, KINGS HEATH, BIRMINGHAM B14
6EN**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 1)

The following persons attended the meeting.

On behalf of the applicant

Patrick Burke – Agent, PMB Licensing
Santhi Praba Rajakaruna – Premises Licence Holder

Those making representations

Those making representation did not attend the meeting.

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Following introductions by the Chair, Shaid Yasser, Licensing Section, made introductory comments relating to the report.

Mr Patrick Burke, Agent PMB Licensing made the following points on behalf of the Premises Licence Holder (PLH):-

- a) That they PLH had taken over the business seven months ago and had revamped the premises. Having spoken with people in the area they had expressed a need for the premises licensing hours to be extended.
- b) The PLH had worked for Birmingham City Council (BCC) for 10 years and was still in employment with BCC on a part-time basis with people who had suffered domestic violence.
- c) She had a wealth of experience within Birmingham itself and did a lot of campaigns for the community and knows the pitfalls that may arise for a 24 hour licence.
- d) They needed to have some points of difference from Tesco and the other business within the area that closes at 2300 hours.
- e) With regards to the objection, the objector expressed concerns about problems within the area. The premises was near a busy main road and the police had no objection to the application for the variation of hours.
- f) It was not just alcohol, but a variety of other things will be sold.
- g) The PLH had agreed the following conditions with West Midlands Police:

- Between 2300 hours and 0500 hours customers will only be served via a serving hatch and not allowed inside the premises. The serving hatch will be constructed in such a way that the customer will not have access into the hatch when the internal (shop side) of the hatch is open.
 - Premises will not sell any beers, ciders, lagers, alcopops or premixed spirit drinks above 5.5% ABV between 2300 hours and 0500 hours.
 - No single sales of any beers, ciders, lagers, alcopops or premixed spirit drinks between 2300 hours and 0500 hours.
 - Premises to display prominent signage to inform customers of the restrictions between 2300 hours and 0500 hours.
- h) Bullet point 2 of the conditions agreed with the police dealt directly with the objection received.
- i) In relation to the *mental health issues*, it was strange for the objector to make this statement unless he was educated in mental health issues.
- j) Mr Burke reiterated that there was no objection from the Police or from any of the other responsible authorities. He made reference to a case – lighter touch bureaucracy and stated that the case highlighted the facts that the decision should be based on facts and not on speculations.
- k) In his opinion the objection was based on speculations. There were no issues with the premises as the family would be used to run the business.
- l) He had represented a lot of applicants for Alcester Road South etc., and had received a number of objections, but the current applicant had only one objection.

In response to questions from the Members of the Sub-Committee, Mr Burke and the PLH made the following statements:

- The CCTV was outside the premises and will be recording all activities.
- There will be 2 people in the shop after 2300 hours.
- There was parking to the side of the premises and a car park was also located on the opposite side of the road which was owned by a Public House.
- They will be selling to people that work in services such as the Police, fire and hospital – shift workers.
- As Tesco closed at 2300 hours, a number of people had approached them to purchase alcohol, but they could not sell them anything as they were also closed at 2300 hours.

At this stage in the meeting the Chair asked members if representatives wished to make any closing submissions.

Both confirmed they had nothing more to add and felt they had been able to have their say.

At 0950 hours, the meeting was adjourned. All parties with the exception of Members, the Committee Lawyer and Committee Manager left the meeting.

At 1010 hours the meeting was reconvened and all parties were invited back into the meeting room and the decision was read out as follows:-

5/030719 **RESOLVED:-**

That the application by Santhi Praba Rajakaruna to vary the Premises Licence in respect of Sid's Off Licence, 284 Alcester Road South, Kings Heath, Birmingham, B14 6EN under section 34 of the Licensing Act 2003

BE GRANTED SUBJECT TO THE CONDITIONS WHICH WERE AGREED IN ADVANCE WITH WEST MIDLANDS POLICE, namely:

- Between 2300 hours and 0500 hours customers will only be served via a serving hatch and not allowed inside the premises. The serving hatch will be constructed in such a way that the customer will not have access into the hatch when the internal (shop side) of the hatch is open
- The premises will not sell any beers, ciders, lagers, alcopops or premixed spirit drinks above 5.5% between 2300 hours and 0500 hours
- No single sale of any beers, ciders, lagers, alcopops or premixed spirit drinks between 2300 hours and 0500 hours
- Premises to display prominent signage to inform customers of the restrictions between 2300 hours and 0500 hours

In addition to the above conditions, those matters detailed in the opening schedule and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued.

The Sub-Committee considered the written objection made by a local resident, but noted that the applicant had proposed sufficient conditions to satisfactorily address the issues raised and to ensure that the licensing objectives could be promoted. The Sub-Committee considers the conditions imposed to be appropriate, reasonable and proportionate to address concerns raised.

The Sub-Committee also noted that the applicant stated that her intention was to have two people on duty at night, which reassured the Members.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the information in the application, and the written and oral representations made by the applicant, her adviser, and other persons.

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of decision.

GAMBLING ACT 2005 VARIATION OF A LICENSED PREMISES GAMING MACHINE PERMIT THE BILLESLEY, BROOK LANE, KINGS HEATH, BIRMINGHAM, B13 0AB

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 2)

Shaid Yasser, Licensing Section, made introductory comments relating to the report.

Councillor Eustace voiced his objection to a permit being granted for the additional gaming machine and stated that there were gambling problems. He added that he felt that four was enough. A brief discussion ensued and the Sub-Committee indicated that they were likely to adjourn the hearing for the applicant to make representation to the Sub-Committee.

The Licensing Officer advised that the gaming machines were categories C and D and referred the Sub-Committee to Appendix 4 to the report. The Licensing Officer further drew the attention of the Sub-Committee to the supporting documents at Appendix 1 to the report detailing the plan which showed where the applicant will position the additional gaming machine.

The Committee Lawyer advised that the Birmingham City Council (BCC) Enforcement Officer had visited the premises and had no objections to the application for a variation of the licence for the gaming machine permit.

The Licensing Officer advised that the applicant could be invited to attend a hearing with the Sub-Committee where they could ask questions of the applicant, but that the applicant may not attend the hearing, but could make a written representation.

6/030719

RESOLVED:-

That the application by Regal Gaming and Leisure, for the variation of a Licensed Premises Gaming Machine Permit in respect of The Billesley, Brook Lane, Kings Heath, Birmingham B13 0AB has been considered, and at this initial stage the Sub-Committee is minded to refuse.

As per the Gambling Act 2005 at Schedule 13, paragraph 6, a Licensing Authority may not refuse an application, or grant it in respect of a different category or number of gaming machines, without first notifying the applicant and giving the applicant an opportunity to make representations - either in written form, or oral form, or both. Therefore you are requested to make representations (either written, oral, or both).

The Sub-Committee's reasons for proposing to refuse this application for variation were that it was a public house frequented by families and therefore children. The Sub-Committee was mindful of the promotion of the licensing objectives, particularly protecting children and other vulnerable persons from being harmed or

exploited by gambling.

The Sub-Committee was not persuaded that the proposed variation would not pose a risk to protecting children and vulnerable people from harm or exploitation. Safeguarding is taken very seriously in Birmingham and the Members felt that the application as it stood did not give any justification for permitting the variation given the risk of exploitation of children and vulnerable people.

The Sub-Committee gave consideration to whether any measures could be taken to ensure that the licensing objectives were adequately promoted and that therefore the Licensed Premises Gaming Machine Permit variation application could be granted; however Members considered that in general the application as it stood was not satisfactory.

The applicant is therefore invited to submit to the Licensing Department any representations they wish to make without delay, and in any event within 28 days of the date of this interim decision. If representations are not received within 28 days then it shall be assumed that the applicant no longer wishes to pursue the application and it will be deemed to have been withdrawn.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Principles, the Guidance issued under Section 25 of the Gambling Act 2005 by the Commission, the application for variation and the opinion of the City Council's Licensing Enforcement Department.

OTHER URGENT BUSINESS

7/030719 There was no urgent business.

Meeting ended 1021 hours.

Chairman