

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE B 6 APRIL 2021

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY 6 APRIL 2021 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Nagina Kauser in the Chair;

Councillors Mike Leddy and Adam Higgs.

ALSO PRESENT

Bhapinder Nandhra – Licensing Section
Joanne Swampillai – Legal Services
Katy Townshend – Committee Services

(Other officers were also present for web streaming purposes but were not actively participating in the meeting)

NOTICE OF RECORDING/WEBCAST

- 1/060421 The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

2/060421 **DECLARATION OF INTERESTS**

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 will be recorded in the minutes of the meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

- 3/060421 Apologies were submitted on behalf of Councillor Nicky Brennan and Councillor Mike Leddy was the nominated substitute Member.
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**LICENSING ACT 2003 PREMISES LICENCE – GRANT – CHURCH ROAD
CONVENIENCE STORE, 12 – 14 CHURCH ROAD, ASTON, BIRMINGHAM B6
5UP**

Report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See document No. 1)

On Behalf of the Applicant

Maninder Khurana – Applicant
Mr Dahlil – Business Partner
Patrick Burke – Agent

Those Making Representations

Lorna Harris – Resident
Sandra Drummond – Resident
Sarah Rumble – Resident

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The Chairman introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider.

The Chairman then explained the hearing procedure prior to inviting the Licensing Officer, Bhapinder Nandhra to outline the report.

Afterwards, the Chairman invited the applicant or their representative to outline their application, at which stage Patrick Burke made the following points: -

- a) That the previous owners of the business sold it and then transferred the licence.
- b) The premises was situated in a parade of six shops. There was a wine shop, kebab shop, news agents, doctor's surgery and an empty shop.
- c) His client had taken over the lease, he had a wealth of experience and had worked in several shops around Birmingham.
- d) There had never been any issues in any of the shops his client had worked in.
- e) There wasn't any objections from any responsible authorities.
- f) The objection at appendix 1 expressed concerns regarding the opening time of 7am, however the shop was already open from 7am daily. The hostels in the area were backpacker hostels.

- g) Appendix 2 detailed concerns about drug dealing, drug consumption and rubbish. However, they had committed to providing adequate bins for rubbish. There was also a concern about loitering, but there was no evidence of this, or any objection from any responsible authorities.
- h) Appendix 3 suggested crime was on the up, yet there was no objection from West Midlands Police.
- i) The objections at Appendix 4, 5 and 6 should be disregarded as they weren't applicable, they were based on competition which was not a consideration under the Licensing regime.
- j) Appendix 7 was concerned with protecting children from harm but again there was no evidence to support that and no objections from responsible authorities.
- k) The petition was instigated by the shop next door and therefore they were concerned that the petition was not based on the licensing objectives.
- l) Appendix 8 and 9 raised concerns of anti-social behaviour and public nuisance, however again there was no evidence to support the concerns.
- m) In conclusion Mr Burke stated that the objections were based on speculation and cited the case of *Daniel Thwaites plc v Wirral Borough Magistrates' Court [2008] EWHC 838 (Admin)*.

In answer to questions from Members, Patrick Burke, on behalf of the applicant made the following points: -

- a) The premises was already operating 7am-10pm and they were applying for a licence to match the current opening hours. However, they would amend the licensable hours to 8am.
- b) The premises would be selling a standard selection of alcohol, much the same as the shop next door.
- c) The cheapest bottle of wine would be about £5.00.
- d) A 4 pack of Stella would be £6.49 and Carling £4.99.
- e) His client had worked in premises in Rubery and Cotteridge.
- f) The premises had been refurbished.
- g) His client had installed additional CCTV both inside and outside the premises. There would be a challenge 25 policy, refusals book, and they would provide staff training.
- h) That they understood the residents concerns but West Midlands Police hadn't raised any issues with the application.

The Chairman invited Sandra Drummond to make her submission, at which stage Sandra Drummond made the following points: -

- a) That the residents in the area didn't think the licence was needed. It wouldn't benefit them in anyway and they were trying to build a community.
- b) That the applicant didn't live in the area and didn't have to witness what was going on.
- c) That the refurb wasn't complete, there was still work to do inside and outside.
- d) That Cotteridge was a different demographic and therefore it wouldn't be fair to compare them.
- e) The premises opened at 12noon, not 8am.
- f) That she wanted to start a resident's association. The community was working together for better.
- g) There was a lot of problems in the area and people suffering from mental health issues. A second off licence would not help or benefit the community.

At this stage in the meeting, Lorna Harris was invited to make her case and made the following points: -

- a) The hostels were not for backpackers.
- b) She was a counsellor and knew the issues in the area.
- c) Mothers were scared for their children's safety.
- d) There was alcohol all over the place.
- e) The other off licence shut at 3pm on a Sunday, and the owner had respect for the local community.
- f) She had grandchildren and wanted them to have freedom.
- g) That no one had petitioned for an alcohol shop, a meat shop would be better.

The Chairman invited Sarah Rumble to make her submissions, at which stage she made the following points: -

- a) That she had 3 children growing up here and didn't see the need for another off licence.
- b) The other off licence in the area opened at reasonable times and respected the residents.

- c) That it wasn't right opening an off licence that early in the morning when children were going to school.
- d) That she was angry at the applicant for trying to open another off licence.
- e) That the area could do with the meat shop that sold lamb and pork.

The Chairman invited Sarah Rumble to make a closing submission and as such she made the following points: -

- That she had nothing else to say, Lorna and Sandra had said everything.
- The area was becoming lovely, she had lived here for 23 years and she felt there wasn't a need for another off licence.

The Chairman invited Sandra Drummond to make her closing submission, at which point she made the following points: -

- That they didn't need another off licence.
- They were trying to build a community.
- They wanted to move forwards not backwards.

The Chairman invited Lorna Harris to make her closing submission and as such she made the following points: -

- That it had taken a lifetime to build anything of worth and they wanted to continue building the community up.
- Another off licence would destroy it.

The Chairman invited the applicant and their representative to make a closing submission, at which stage Patrick Burke on behalf of the applicant made the following points: -

- His client had a wealth of experience in this line of business and had worked in other shops.
- There were no representations from any of the responsible authorities.
- That his client was not looking to open an off licence, it was a store which included groceries and meat.
- That it was a brave thing to do opening a business with everything going on in the world currently.
- That they were refurbishing the shop.

At this stage the meeting was adjourned in order for the Sub Committee to make a decision and all parties left the Teams meeting. The Members, Committee Lawyer and Committee Manager conducted the deliberations in private and decision of the Sub-Committee was sent out to all parties as follows: -

4/060421 **RESOLVED:-**

That the application by Maninder Singh Khurana for a premises licence in respect of Church Road Convenience Store, 12 – 14 Church Road, Aston, Birmingham B6 5UP, **BE GRANTED** with the hours of operation to be from 08.00 hours to 22.00 hours daily. Those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will also form part of the licence issued.

The Sub-Committee deliberated the operating schedule put forward by the applicant company, and the likely impact of the application - in particular the offer to shorten the operating hours. The Sub-Committee concluded that by granting this application, the four licensing objectives contained in the Act will be properly promoted.

The director of the applicant company explained via his representative that he was experienced in the licensed trade – as a manager and staff member in retail premises. He was assisted by a business partner. He had invested money in the premises, and had made various improvements such as the installation of additional CCTV cameras and lighting inside and outside the shop.

Members carefully considered the representations made by other persons, namely local residents (three of whom addressed the Sub-Committee directly in the meeting), but were not convinced that there was an evidential and causal link between the issues raised and the effect on the licensing objectives. The representations related to a risk of increased antisocial behaviour and crime, which the residents felt were associated with a hostel nearby, but it was not likely that a carefully-managed new premises would add significantly to these problems. The plan was to offer alcohol at the recommended retail price, rather than offering cut-price promotions.

Those making representations were keen to state that to grant a further licence in the area would have a negative impact on the licensing objectives, but the applicant company's representative cited the case of *Daniel Thwaites plc v Wirral Borough Magistrates' Court [2008] EWHC 838 (Admin)* in urging the Sub-Committee not to be unduly influenced by speculative representations. The submissions made by the applicant company's representative had made clear that there was no reason to think that either the operation, or the licence holder, would not be capable of upholding

the licensing objectives. Moreover, the Sub-Committee noted that no representations had been made by West Midlands Police.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under s182 of the Licensing Act 2003 by the Secretary of State, the application for a premises licence, the written representations received and the submissions made at the hearing by the applicant via his representative, and by those making representations.

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 the decision.

Please note, the meeting ended at 1109.