

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A 22 JANUARY 2024
--

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD ON MONDAY 22 JANUARY 2024 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Sam Forsyth in the Chair;

Councillors Julien Pritchard and Penny Wagg.

ALSO PRESENT

David Kennedy – Licensing Section
Joanne Swampillai – Legal Services
Katy Poole – Committee Services

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

1/220124

NOTICE OF RECORDING/WEBCAST

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2/220124

DECLARATION OF INTERESTS

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting.

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

- 3/220124 Apologies were submitted on behalf of Councillors Phil Davis, Mary Locke and Simon Morrall, Councillors Sam Forsyth, Julien Pritchard and Penny Wagg were the nominated substitute Members respectively.
-

MINUTES

- 4/220124 That the Public section of the Minutes of the meeting held on 18 December 2023 at 1000 hours were noted and the Minutes as a whole were circulated and confirmed and signed by the Chair.
-

LICENSING ACT 2003 PREMISES LICENCE – GRANT – MO WINE SHOP, 39 HORSE FAIR, BIRMINGHAM, B1 1DA.

On Behalf of the Applicant

Rob Edge – Agent
Mr Behzad - Applicant

On Behalf of The Premises Licence Holder

No one making representations attended the meeting.

* * *

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

At this stage, the Chair outlined the procedure to be followed at the hearing and invited the Licensing Officer to present his report. David Kennedy Licensing Section, outlined the report.

At this stage the chair invited the applicant to make their presentation and Rob Edge on behalf of the applicant made the following points: -

- a) That he had made contact with the objector on two occasions but had not received a reply.
- b) There was no evidence to back up what had been said by the objector.
- c) The original objector wrote to the applicant/representative to advise them that his friend made the objection through his email address. Mr Edge wrote to both of them on numerous occasions with no response.
- d) They had agreed conditions with WMP (West Midlands Police).

- e) It was a robust application.
- f) The application should be granted with the police conditions.
- g) The applicant had worked in the licensing trade for years.

The Chair requested that the applicant introduce himself and make a representation.

Mr Behzad introduced himself and advised the Committee to he just wanted to open a nice business. There were 400-600 flats in the area, meaning there were lots of people requiring an off licence/convenience store. The police were happy with the application.

In response to a question from Members, Mr Edge explained that there had been incidents at an adjacent property which had resulted in the licence being revoked. It had since re-opened under different ownership.

The Chair then invited the applicant/representative to make a brief closing submission, Rob Edge made the following closing statements: -

- That the applicant was an experienced operator.
- 14 additional conditions had been agreed with WMP.
- That the application should be granted with the conditions agreed with WMP.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and the short decision was announced at the meeting. A full written decision of the Sub-Committee was sent to all parties as follows;

5/220124

RESOLVED:-

That the application by Behzad Zarandi for a premises licence in respect of Mo Wine Shop, 39 Horse Fair, Birmingham B1 1DA, be granted subject to all those conditions agreed between the applicant and West Midlands Police in advance of the meeting, namely:

- An incident log and refusals log will be maintained at all times and will be checked and signed off by the designated premises supervisor [DPS] at regular intervals. These logs will be made available for inspection by any responsible authority, upon reasonable request
- No single cans/bottles of beer or cider will be sold at any time
- Receipts for all purchases from the wholesaler will be retained at the premises and made available for inspection by any responsible authority
- If the DPS/ Premises Licence Holder is not on site, there will be a member of staff left in charge of the premises who has enough knowledge of the business to liaise with any of the responsible authorities as required

Licensing Sub-Committee A – 22 January 2024

- The premises will not supply any form of drinking vessel to customers purchasing alcohol
- All off sales are only permitted in sealed containers
- No beer, lager cider or spirit mixtures over 5.5% ABV to be sold
- No miniature bottles of spirits to be sold
- Till prompts to be activated on all alcohol sales (electronic or otherwise)
- As soon as possible from the grant of this licence, the premises shall join the local Pubwatch, or other local crime reduction scheme approved by the police
- The Premises Licence Holder will ensure that disturbance caused to the public is kept to a minimum. Signage will be placed in a prominent place asking customers to respect neighbours, and not to loiter at the front of the premises. This shall be strictly controlled by the Premises Licence Holder at all times when the premises is open
- The premises' staff will ensure that the frontage of the premises is checked regularly for litter and rubbish, clearing any debris away. No rubbish, including bottles, shall be moved, removed, or placed in outside areas between 2200 hours and 0800 hours
- All staff are to be trained in the prevention of underage sales to a level commensurate with their duties. All such training to be updated as necessary, for instance when legislation changes, and should include training on how to deal with difficult customers. The training should be clearly documented and signed and dated by both the trainer and the member of staff receiving it. The documentation shall be available for inspection on request by any responsible authority
- The premises licence holder or DPS will conduct pre-opening checks of the premises to ensure that there are no risks to patrons and that all safety precautions are in place
- The licence holder will ensure that all staff receive appropriate training. The licence holder would ensure that all staff are aware of their social and legal obligations and their responsibilities regarding the sale of alcohol. These training records will be retained at the premises, and staff training will take place twice per year
- All safety certificates and inspection reports will be kept on site and made available to the responsible authorities upon request. A Fire Risk Assessment will be held by the premises licence holder at the premises and made available for inspection at reasonable request
- Challenge 25 signage shall be displayed prominently throughout the premises. A Challenge 25 policy is in place and only recognised forms of ID will be accepted (PASS accredited ID, passport, or photo driving licence)
- A minimum of two members of staff shall be on duty at the premises from 2200 hrs until the premises closes
- If for any reason the CCTV hard drive needs to be replaced the previous/old hard drive will be kept on site for a minimum of 31 days and made immediately available to any of the responsible authorities on request. The CCTV will be checked to ensure that it is working each week. This information will be stored for 12 weeks and made available to any of the responsible authorities on request

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 applicant attended the meeting, represented by a licensing agent. Conditions had been agreed with West Midlands Police in advance of the meeting. Another person had submitted a written representation to the Sub-Committee, which was in the Committee Report. The Members considered the written representation carefully.

The agent addressed the Sub-Committee to confirm that he had given full regard to the representation which had been submitted, and had made contact with the objector on two separate occasions, but had not received any reply. The original objector had told the agent that it was not him who had objected, but a friend using his email address. The agent had written to both persons, but had not received any response. The agent suspected that the objection might have been motivated by commercial interests.

The agent did not believe that there was anything substantial within the objection. He asked the Sub-Committee to note that there was “no evidence to back up what has been said about this premises”.

The agent remarked that the fourteen additional conditions agreed with the Police had made the application “exceptionally robust” for an off-licence style premises. He was confident that the additional conditions would ensure that the licensing objectives were promoted. The applicant had worked in off-licence premises for a number of years, and intended to run the Mo Wine Shop “to the highest of standards”. The agent assured the Sub-Committee that the premises would not create any adverse effect on the promotion of the licensing objectives.

The applicant then addressed the Sub-Committee to confirm that his wish was simply to “open a nice business”. He observed that the high levels of residential housing nearby meant that the area would benefit from an off-licence and convenience store. The Police had been happy that he had agreed conditions with them.

The applicant reminded the Members that the person(s) objecting had not attended. The applicant had been surprised to see that any objection at all had been made, and asked the Sub-Committee to note that one of the two off-licences in the vicinity was going to be closed shortly. There would therefore still only be two such premises in the neighbourhood if the application were granted.

The applicant added that other licensed premises in and around Horse Fair operated to 04.00 hours and he had never seen any fights in the area (as had been mentioned in the written representation). Finally, he assured the Sub-Committee that if the licence were to be granted he would operate carefully and safely.

The Sub-Committee noted that under paragraph 9.43 – 9.44 of the Guidance issued under s182 of the Act, there was a presumption to grant such applications unless there was good evidence of a risk to the promotion of the licensing objectives. The Sub-Committee therefore looked carefully at whether there was evidence that the proposed operation would in fact have an adverse effect on the licensing objectives.

The Members noted that the person who had submitted a written representation had not attended the meeting, and therefore they did not have an opportunity to ask questions.

When deliberating, the Sub-Committee noted that the applicant's intention was to provide a service to local residents. The operating schedule had been drafted with regard to the licensing objectives, and had been approved (with additional conditions) by West Midlands Police. The operating schedule was supported by a full licensing compliance pack. The Members agreed with the agent that the fourteen additional conditions added to the operating schedule by the Police made for a very robust application.

The Members also noted the agent's comment that the objector(s) had not responded to several attempts to mediate with them. The Members did not consider that the objector had produced any evidential basis for believing that the premises would not operate in accordance with its licence, or that the applicant would not comply with the agreed conditions. The applicant was an experienced operator with many years' experience of working in licensed premises. All in all, the application inspired confidence.

The Sub-Committee therefore resolved that the application could safely be granted together with the additional conditions proposed by West Midlands Police, as the operating schedule properly addressed the promotion of the licensing objectives.

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 application for a premises licence, the written representation received, and the submissions made at the hearing by the agent, and by the applicant.

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.

EXCLUSION OF THE PUBLIC

6/220124

RESOLVED:-

That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-

Exempt Paragraph 3

CHAIR.....