

# BIRMINGHAM CITY COUNCIL

<b>LICENSING SUB-COMMITTEE C 28 FEBRUARY 2024</b>
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## **MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 28 FEBRUARY 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  
Andrew Evans – Legal Services  
Katy Poole – Committee Services

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

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### 1/280224 **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.

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### 2/280224 **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**

- 3/280224 Apologies were submitted on behalf of Councillor Bermingham and Councillor Pritchard was the nominated substitute Members respectively.
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**MINUTES**

- 4/280224 The Minutes of the Meeting held on 7 February 2024 at 1200 hours were circulated and confirmed and signed by the Chair.

The Public section of the Minutes of the meeting held on 7 February 2024 at 1000 hours were circulated and the Minutes as a whole were confirmed and signed by the Chair.

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**LICENSING ACT 2003 PREMISES LICENCE – GRANT – RESTAURANT  
RAHYA, 44A BARKER STREET, LOZELLS, BIRMINGHAM, B19 1EP.**

**On Behalf of the Applicant**

Rob Edge – Agent

**On Behalf of Those Making Representations**

Mohammed Ali – Objector

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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. Bhapinder Nandhra Licensing Section, outlined the report.

At this stage the chair asked the applicant to make her representation, Rob Edge, on behalf of the applicant made the following points: -

- a) That the applicant sent his apologies, he had an unavoidable family emergency to attend to.
- b) They had given full regard to the representation made against the application, the Licensing Objectives, Licensing Act 2003, Birmingham City Council's Statement of Licensing Policy and the Home Office Guidance under Section 182 of the Licensing Act.

- c) Mr Edge had tried to make contact with the objector on two separate occasions the try and find some middle ground.
- d) The representation made by the objector was based on the original application for longer hours – the hours had been reduced in agreement with West Midlands Police.
- e) The representation regarding noise and anti-social behaviour was not supported by Environmental Health or West Midlands Police.
- f) The issue regarding parking was not in the remit of the Licensing Committee, however it would be addressed in any way possible.
- g) The objector also raised concerns about West Midlands Police being over stretched, yet they had agreed over 14 conditions and limited the licensable activity in agreement with the police and entertainment was deregulated.
- h) The amended application would not give cause for concern.
- i) The applicant would liaise with residents to ensure they worked in harmony.
- j) The additional photographs submitted by the objector showed the commercial waste bin outside on the pavement, stating it is unsightly and in a bad place. The premises was undergoing a full refurb and therefore the waste bin was outside more than usual. The bin had a designated alcove and would only be out for collection days.
- k) There had been issues with fly tipping due to the premises being closed, however, it had been reported through the City Council's website.

The Chair invited the objector to make their presentation, Mohammed Ali made the following points: -

- a) That he was aware that conditions had been agreed with West Midlands Police and most of his concerns had been addressed by those conditions.
- b) The bins had been an on-going problem for some time and the photographs demonstrated that the bin had been abandoned down the street by the previous owner.
- c) He was happy with the agreed conditions with the police.
- d) The main issue was the bin and where it would be kept.
- e) If it was kept in the alcove he would be happy.
- f) Would there be an audit process to monitor the premises and the conditions or is the application just granted. He was keen to hear what measures would be taken in that respect.

- g) The hours were a concern, but since they had been reduced he had no objection to the new hours.
- h) He was a worried resident.
- i) He wanted the pathway kept clear and no fly tipping.

The Chair invited both parties to make a brief closing submission. Mohammed Ali confirmed he had nothing more to add and therefore Rob Edge made his closing submission on behalf of the applicant. He stated that he was happy to speak with Mohammed Ali and resolve the issues regarding the bin. It would help them work in harmony and would benefit everyone.

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;

5/280224

**RESOLVED:-**

That the application by **Awat Abraham Derdar** for a premises licence in respect of **Restaurant Rahya, 44a Barker Street, Lozells, Birmingham, B19 1EP**

**BE GRANTED SUBJECT TO THE FOLLOWING MODIFICATIONS AND CONDITIONS** agreed between the Applicant and West Midlands Police to promote the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm objectives in the Act:

**HOURS**

A.	Modification of hours – Alcohol (and regulated entertainment if same hours)	The hours for the supply of alcohol and provision of regulated entertainment shall apply as follows:  <b>12.00 midday to 11.00hrs Monday to Sunday</b>
B.	Modification of Opening hours	The premises to remain open to the public as follows:  <b>12.00 midday to 11.30pm Monday to Sunday</b>

**CONDITIONS**

- 1) The premises shall operate as a restaurant. All patrons shall be seated when consuming food and/or drinks. The premises shall not operate as a vertical drinking establishment at any time.
- 2) The premises shall have no more than 30 patrons in the licensable area at any time.

- 3) The premises will have an operational booking system in order to manage the numbers of patrons at the venue.'
- 4) Glasses and vessels are not to be taken outside at any time.
- 5) All music played within the premises shall be at background level only, and shall not cause a noise disturbance at any residential and/or noise sensitive properties.
- 6) All doors and windows are to remain closed whenever music is being played, save for access to and egress from the premises.
- 7) The premises will have a phone number available to local residents whenever licensable activities are being carried on, in order to respond to any concerns or complaints. This phone number will be distributed to residential properties in the immediate vicinity and published on any website directly associated with the premises.
- 8) The premises licence holder is to design and keep in writing, available for inspection by responsible authorities, a management plan to deter loitering by patrons in the vicinity of the premises.
- 9) 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 28 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.
- 10) The premises will operate an incident register. Each entry will be signed off by the DPS or their nominated deputy. The register will be made available to any of the responsible authorities on request.
- 11) Staff members are to receive documented refresher training at least once every 12 months. These training documents are to be kept at the premises and made available to any of the responsible authorities on request.
- 12) No persons who worked at the premises under premises licence number 1086 are to be involved in the management or control of the premises.
- 13) Prominent notices are to be displayed at the premises reminding patrons that they must not park illegally and to be considerate of other road users and residents.

The Sub-Committee determined to impose these modified hours and volunteered conditions due to the representations made by a local resident Mr Ali and the agreement previously reached between the Applicant and West Midlands Police.

The Sub-Committee took into account the nature of the area in which the premises is located which is primarily residential.

The Sub-Committee listened to the representative for the Applicant, Mr Edge who explained that this was an application for a Restaurant led business with hours that

had been substantially reduced as to hours by agreement with the Police, and the addition of a long list of agreed conditions. In addition to the operating schedule, it was submitted that the application as it now stands is sufficiently robust to promote the licensing objectives. It was also stated that there had been attempts to engage with Mr Ali to address his concerns. The Applicant stated that while they would use their best endeavours to minimise the impact of the licence on local residents, parking problems did not engage a licensing objective and the alleged problems with a commercial bin complained of were temporary and would be solved by its permanent location in an alcove once refurbishment works were completed.

The Sub-Committee heard an amplified representation from Mr Ali. Mr Ali confirmed that he was now content with the revised hours and proposed conditions and did not object to the licence being granted subject to them, albeit he was still concerned with problems around waste emanating from the premises, the positioning of bins and the risk of fly-tipping. He was also concerned about parking around the premises.

The Sub-Committee took into account the position of the Police, who are their main source of advice on crime and disorder (including anti-social behaviour) in that they withdrew their representation in light of the agreement previously reached with the premises.

In respect of Mr Ali's representation, it was noted that the Applicant's agent had engaged with Mr Ali in an attempt to allay his concerns but had not been wholly successful. The Applicant confirmed through his agent that he would continue to liaise with Mr Ali and residents going forwards and the Sub-Committee was pleased to hear that the Applicant had stated his clear intention to continue to listen to and work in partnership with residents who might be affected by the operation of the licence.

In respect of the parking concern the Sub-Committee agreed with the Applicant that a licensing objective was not engaged and that no further conditions were appropriate or proportionate beyond the condition relating to signage volunteered by the Applicant.

In balancing the representation of Mr Ali and the representation of the Applicant concerning waste management, the Sub-Committee did not consider it appropriate or proportionate to add a condition relating to waste management to the premise licence to promote the prevention of public nuisance licensing objective.

The Sub-Committee considers the modified hours and conditions to be imposed voluntarily to be appropriate, reasonable and proportionate to address any and all concerns raised at this time.

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

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, the written representations received and the submissions made at the hearing by the Applicant's representative and a local resident Mr Ali.

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.

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**EXCLUSION OF THE PUBLIC**

6/280224     **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

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CHAIR.....