

# BIRMINGHAM CITY COUNCIL

<b>LICENSING SUB-COMMITTEE B 17 MARCH 2020</b>
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## **MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY 17 MARCH 2020, IN ELLEN PINSENT ROOM, COUNCIL HOUSE, BIRMINGHAM, B1 1BB**

**PRESENT:** - Councillor Nagina Kauser in the Chair;

Councillors Nicky Brennan and Adam Higgs.

### **ALSO PRESENT**

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

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### **NOTICE OF RECORDING**

1/170320 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.

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2/170320 **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 to be recorded in the minutes of the meeting.

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### **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

3/170320 No apologies were submitted.

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### **LICENSING ACT 2003 PREMISES LICENCE – TRANSFER – STOP AND SHOP OFF LICENCE, 885 WASHWOOD HEATH ROAD, BIRMINGHAM, B8 2NA**

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**

No one attended on behalf of the applicant.

**Those making representations**

Abdool Rohomon – West Midlands Police (WMP)

Chris Jones – West Midlands Police (WMP)

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The Chairman outlined the procedure to be followed during the meeting and enquired as to whether there were any preliminary points. None of the parties had any preliminary points to make.

Bhapinder Nandhra, Licensing Section outlined the report.

Chris Jones, WMP gave the Members an unredacted version of the supporting documents they submitted and outlined the following points: -

- a) That this was the second licence transfer application, the first one was withdrawn following a representation from WMP.
- b) The business had been owned and managed by the same individual since 2018, the person operating the premises purchased it from the current PLH. The premises had been operating without authorisation of the sale of alcohol.
- c) The premises licence should have been transferred in 2018, the applicant told WMP that due to an oversight they had not transferred the licence sooner.
- d) WMP visited the premises and found a large quantity of illicit cigarettes, Cannabis was also found. Both members of staff in the shop at the time were arrested. In total 69 packets of cigarettes and 10 tobacco packets were found to be illicit.
- e) All the statements from the officers were at pages 1-13 in WMP evidence pack.
- f) Both employees were arrested for possession and intent to supply but were only charged with possession.
- g) The owner of the shop said she had taken eye off ball and sacked the staff members.

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- h) The previous applicant was in a motor vehicle of the employee who was arrested by WMP for possession of drugs, but both were bailed.
- i) When the previous application was submitted the applicant phoned WMP on the back of their objection and wanted to know what the problem was. WMP told him that there was a link between him and the business owner and therefore, there would be a problem.
- j) The applicant never offered any information regarding a link but WMP found out that the female associate of the employee was his sister and lived at the same address of the applicant. He never told WMP that information.
- k) Chris Jones noticed differences in signatures (pages 20-23) and phoned BCC to ask them for a copy of the premises licence to see the signature on that document. There were discrepancies with the signatures. Chris explained the differences with the signatures to the Members.
- l) WMP visited the home address of the current licence holder who confirmed she had not signed the paperwork; therefore, it was not her signature.
- m) WMP were concerned that by granting the application the licensing objective of crime and disorder would not be upheld.

In summing up Chris Jones, WMP made the following points: -

- ❖ That WMP had no confidence that the applicant would uphold the licensing objective of crime and disorder and if the transfer was granted they would be looking at reviewing the premises.

At 0956 the meeting was adjourned and all parties with the exception of the Members, Committee Lawyer and Committee Manager withdrew from the meeting.

At 1017 the meeting was reconvened and all parties were invited to re-join the meeting and decision of the Sub-Committee was announced as follows:-

4/170320

### **RESOLVED:-**

That the application by Khabir Hussain for the transfer of the premises licence under section 42 of the Licensing Act 2003 in respect of Stop and Shop Off Licence, 885 Washwood Heath Road, Birmingham, B8 2NA **BE REFUSED** on the grounds that the application to transfer would undermine the crime prevention objective of the Act, as the Sub-Committee had no confidence that the applicant was capable of upholding it.

The Sub-Committee noted that neither the applicant nor his agent attended the meeting. The agent had notified the Licensing Department that the applicant was self-isolating due to health concerns; however no application for adjournment had been made, and the agent did not attend the meeting either. The Sub-Committee

proceeded with the meeting in the public interest, and especially in view of s43 of the Act (relating to transfer applications having interim effect).

The Sub-Committee heard from West Midlands Police, and considered the Police's grounds for objection to be compelling and exceptional. The Police made detailed submissions about how the instant application was in fact the second transfer application they had received within a month. The Police had objected to the first application (made in the name of another person), in the light of discoveries made during a visit to the premises in December 2019, namely drugs and illicit tobacco. Employees at the premises had been arrested. The premises was therefore associated with crime, and accordingly the Police had objected to the first transfer application when it was made - only for that application to be withdrawn, and a second application made, this time by Mr Khabir Hussain.

The Police had spoken to Mr Khabir Hussain. During discussions with Police, it had become apparent that Mr Hussain was aware of the investigation of the employees, and aware of what had been discovered during the Police visit. The Police therefore asked him whether he was connected to the first applicant. Although Mr Hussain denied any link with the first applicant, a connection between an employee's family member and Mr Hussain was discovered by Police. Accordingly the Police objected to Mr Hussain's application, on the grounds that the crime prevention objective could not be upheld. The Sub-Committee accepted this.

The Sub-Committee was also concerned to hear that there was doubt over whether the application made by Mr Hussain was legitimate, given that the previous premises licence holder had denied signing a relevant document, and in fact had denied any knowledge at all of any transfer application made by Mr Hussain. The person had given a statement to this effect to the Police.

On hearing this, the Sub-Committee agreed with the Police that there were doubts about the applicant's integrity. The question mark over the applicant's integrity, when viewed in the light of his connection with the previous applicant, gave the Members no confidence whatsoever that Mr Hussain could uphold the crime prevention objective at a premises which was already associated with drugs and illicit tobacco.

The Police confirmed that they had passed all the details of the grounds of their objection to the applicant, but nothing had been put forward to counter any of it. Accordingly the Sub-Committee accepted all of the Police evidence, and determined that Mr Hussain was completely unsuitable to address issues of crime at the premises, as outlined by the Police. The correct course was therefore to reject the transfer application, in order to ensure that the crime prevention objective was not undermined.

In reaching this decision, the Sub-Committee gave due consideration to the information contained in the application, the objection notice submitted under Section 42(6) of the Act, and the submissions made at the hearing by West Midlands Police. Regard was also given to paragraph 8.101 of the Guidance issued under Section 182 of the Act by the Secretary of State, and it was

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determined that refusal in this instance is an appropriate and proportionate response in all the circumstances of the case.

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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*Please note, the meeting ended at 1019*

CHAIRMAN.....