BIRMINGHAM CITY COUNCIL

LICENSING
SUB-COMMITTEE B
22 SEPTEMBER 2020

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY 22 SEPTEMBER 2020 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Nagina Kauser in the Chair;

Councillors Nicky Brennan and Adam Higgs.

ALSO PRESENT

Shaid Yasser – 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)

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NOTICE OF RECORDING/WEBCAST

1/220920 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.

2/220920 **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

3/220920 No apologies were submitted.

MINUTES

4/220920 The Minutes of the meeting held on 4 August 2020 were circulated to all Members and were confirmed and signed by the Chair.

GAMBLING ACT 2005 PREMISES LICENCE – GRANT – ADMIRAL, 54-57 HIGH STREET, BIRMINGHAM, B4 7SY.

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

(See document No. 1)

On Behalf of the Applicant

Stephen Walsh QC – Three Raymond Buildings
Elizabeth Speed – General Counsel
Mark Thompson – Head of Risk and Compliance
James Sturgess – Regional Operations Director

Those Making Representations

Mark Owen – Solicitor
Kim Dowell – Betfred Area Manager

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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, Shaid Yasser to outline the report.

Afterwards, the Chairman invited the applicant or their representative to make their submission. At which stage Stephen Walsh QC made the following points: -

a) That the paperwork contained further submissions to make their position clear. There was also evidence of the applicant's extensive experience within the documentation.

b) The applicant operated an Admiral premises in the nearby shopping centre; one in Erdington and another in Kings Heath. All of which had a long record of compliance.

c) The company had established good relationships with Gamble Aware and made contributions to research. The applicant also remained in close liaison with the Gambling Commission. There was evidence of compliance.

d) The Gambling Objectives had been met and the risk assessment had been provided. A further Covid-19 risk assessment had also been conducted.

e) They had risk assessments and fully up to date CCTV, the records were kept in line with the requirements.

f) They had special lighting and staff alarm activators.

g) Staff were trained and the applicant took their responsibilities very seriously.

h) Staff also received training on customer interactions.

i) The applicant went above and beyond the Gambling Commission recommendations.

j) The company employed an independent test purchaser organisation to conduct unannounced test purchases across the company.

k) The applicant had a much higher pass rate than the industry average.

l) The staff training was wide ranging and refreshed regularly.

m) It was a ground floor premises, 2 story, with a basement – all of which was evidenced in the plan.

n) Planning permission had been granted for use as an Adult Gaming Centre (AGC). The planning information was included as it was highly informative.

o) The intention was to close the Priory Square premises within 6 weeks should the licence be granted. They couldn't close it any sooner than that and they couldn't be sure when the premises would open due to the Covid-19 pandemic. However, they were happy to have a condition that the licence at Priory Square would be surrendered within 6 weeks.

p) No responsible authorities had any issues with the application.

q) The planning department had an issue with late night trading and as such they imposed a 2200 hour closing time which was relevant to the application.

r) The applicant's position on the Betfred representations were summarised on pages 43-45 of the report. Betfred were an interested party and they would be affected in terms of business; therefore, the representation was based on competition and the Act expressly prohibited objections based on the threat of competition.

s) The nearby McDonalds was a congregation point and there was no evidence that the premises would adversely impact the crime levels in the area.

t) The planning decision was not one that the Licensing Committee were bound by, however it did address the same issues.

u) There was no evidence before the Committee that the premises was a concern for crime and disorder.

v) The applicant would employ security each day from 1500 hours until closure. CCTV was a further deterrent.

w) There was no reason to believe that the children that gather at bus stops would be adversely impacted by the premises.

x) They had tried to set out an application that met all the requirements and therefore should be permitted.

In answer to Members questions Mark Thompson and James Sturgess made the following points: -

a) James Sturgess advised that Committee that they didn't plan on having an ATM machine at the premises.

b) Mark Thompson told the Committee how they had measures to prevent vulnerable people from entering the premises. They used measures in advance to ensure that they didn't end up having to take drastic action.

c) Mark Thompson informed the Committee that they were in the process of launching a new scheme called Gamblewise; a free app which provided customers with advice and tools in order to help themselves.

The chairman then invited Mark Owen to make his submissions, at which stage Mark Owen made the following points: -

a) He had 5 main points to go through:
   1. The locality of the premises made it challenging and difficult. Everyone acknowledged that children congregated in the afternoons at bus stops, the station and McDonalds.
   2. The area suffered from homelessness and begging.
   3. The shops attracted a certain type of person and this shop would be an attraction.
   4. There was a relatively high level of crime in the area.
   5. Was it appropriate?

b) The Committee should ask themselves what the tipping point was for granting premises licences in the area. It was already a challenging area that needed to be finely balanced.

c) The applicant's intention was to attract new business to the area. If they closed the Priory Square premises those individuals would just gravitate to this locality.

d) That he didn't believe the planning considerations should have any weight on the licensing hearing.

e) The applicant acknowledged the issues in the area.

f) The door supervisor could be a point of confrontation.

g) What about the issues before 1500 hours?

h) That there were a number of issues with the LARA which made reference to the layout of the premises, however it was not consistent with the plans.

i) He had concerns over only 2 members of staff being on duty, what would happen with lunch breaks and toilet breaks.

j) The decision in 2017 was rejected because they couldn't demonstrate significant detail had been put forward and therefore it was a matter for the Committee to evaluate whether the applicant had overcome that hurdle at todays hearing.

The chairman invited Mark Owen to make a closing submission, however he advised he had nothing further to add.

Then the Chairman invited the applicant and/or their representative to make their closing submission at which stage Stephen Walsh QC, on behalf of the applicant made the following points: -

- That he needed to address a few issued raised.
- Mark Owen made reference to a high number of children in the area and seemed to imply the engagement of a door supervisor was acceptance of a problem in the area. That was not the case the door supervisor was the ensure an extra level of supervision.
- He agreed that planning was a separate regime, however there were overlapping issues.
- There was no reason to suggest the plan didn't meet the requirements within the Act.
- Two members of staff would be on duty at all times and there would be a door supervisor from 1500 hours also.
- The police had not objected to the application.
- That Betfred were concerned about the competition.

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: -

5/220920 **RESOLVED**:-

That the application by Talarius Limited for an Adult Gaming Premises Licence in respect of Admiral, Ground and First Floor, 54-57 High Street, Birmingham, B4 7SY

BE REFUSED

In reaching this decision, the Sub-Committee was mindful of the promotion of the Licensing Objectives in the Gambling Act 2005, particularly:

- the prevention of gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime,
  and also
- the protection of children and other vulnerable persons from being harmed or exploited by gambling

The Sub-Committee's reasons for refusing this application for an Adult Gaming Centre Premises Licence are due to concerns raised by other persons regarding the impact of the proposed operation on the particular locality of the premises, in a busy part of the City centre. The Sub-Committee was aware that the Guidance recommended that they should aim to permit 'where the requirements were met'.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Principles under the Gambling Act 2005, the Guidance issued to Local Authorities by the Gambling Commission, the application for a Gambling Act Premises Licence, the written representations received, and also the submissions made at the hearing by the applicant, their legal adviser and by those making representations.

All parties are reminded that under the provisions contained within Part 8 to the Gambling Act 2005, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within the period of twenty-one days beginning with the day on which the appellant receives notice of the decision against which the appeal is brought.

Please note, the meeting ended at 1103.