

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE B 5 MAY 2021

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON WEDNESDAY 5 MAY 2021 AT 1130 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Nagina Kauser in the Chair;

Councillors Mary Locke and Bob Beauchamp.

ALSO PRESENT

David Kennedy – 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

- 1/050521 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.

2/050521 **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

- 3/050521 Apologies were submitted on behalf of Councillor Nicky Brennan and Councillor Adam Higgs and Councillor Mary Locke and Bob Beauchamp were the nominated substitute Members, respectively.
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**LICENSING ACT 2003 PREMISES LICENCE – GRANT – EUROPEAN AND
ASIAN MINI MARKET, 290 ALUM ROCK ROAD, ALUM ROCK, BIRMINGHAM,
B8 3DD**

On Behalf of the Applicant

Nabaz Ali-Pour – applicant
June Clarke – licensing consultant
Tony Clarke – licensing consultant

Those Making Representations

Cllr Mohammed Idrees – Local Ward Councillor

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The Chairman introduced the Members and officers present and asked if there were any preliminary points. At which stage David Kennedy, Licensing Officer, advised that one of the objectors who attended the hearing yesterday was unable to attend this morning and was therefore requesting another adjournment.

The Chairman asked whether any parties had any comments.

Cllr Idrees added that the adjournment request was because two key objectors could not attend the hearing today.

June Clarke commented that the email that arrived this morning was late evidence and should not be accepted. She also added that they did not agree to another adjournment.

The Chairman took a short adjournment to seek legal advice at 1159. The Members, Committee Lawyer and the Committee Manager left the public meeting and conducted a separate private Teams meeting to seek legal advice.

At 1215 the hearing was reconvened, and the Chairman advised that the meeting would not be adjourned, and the additional documents would be accepted. Therefore, if all parties wanted 20 minutes to read the document, that would be granted.

Both parties advised that they had read the document.

The Chairman continued to read the procedural rules and then invited David Kennedy to outline the report.

David Kennedy, Licensing Officer, read the report.

The applicant was invited to make their case, at which stage June Clarke, on behalf of the applicant made the following points: -

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- a) That they were here today to determine the application. She had been a Licensing Consultant for 16 years and was the agent for the applicant.
- b) The applicant had taken over the lease in the shop, he had a personal licence and worked full time.
- c) The shop would be a high-end supermarket with a small bakery, groceries and fresh meat.
- d) It would provide a service to the local community.
- e) They had a CCTV system with 8 cameras covering the interior and exterior of the shop.
- f) It was a busy shopping area, with a great assortment of shops.
- g) They had done risk assessments and attached conditions to the licence.
- h) The conditions were precise and enforceable, and the operating schedule would support the Licensing Objectives.
- i) Her client knew his duty of making sure customers did not cause problems.
- j) There were 5 letters of objection. Cllr Idrees wanted to redact some of his statement, so she was careful in what she said.
- k) Upon reading the statements from Cllrs they responded on 7 April 2021, however they never received a response.
- l) The other 4 objectors all made similar statements suggesting that the applicant was selling alcohol without a licence. However, that was not the case, he had 2 TENs granted and although they had TENs granted, they never used them.
- m) The letters also contained numerous references to crime and anti-social behaviour in the area which was not related to the premises. Further, there was no representation from West Midlands Police who were the experts and Members main source of guidance.
- n) All the paperwork was done and there were conditions already offered.
- o) She read the conditions out (see report).
- p) That the application should be approved on its own merits and if the panel found any areas of weakness, they would be happy to discuss further conditions to support the Licensing Objectives.

In answer to Members questions June Clarke made the following points: -

- a) That the applicant would have two staff – one full time and one part-time. Then he would also be in the shop every day.

- b) All spirits would be behind the counter, not accessible by customers.
- c) The storage room at the back would be locked.
- d) Staff training would be provided.
- e) All compliance books will be prepared bespoke for the premises, ensuring they are fit for purpose.
- f) The CCTV would be retained for 31 days.

In answer to members questions Mr Ali-Pour made the following points: -

- a) That he lived 10 minutes away and knew the local area well.
- b) He had a personal licence.
- c) He had previously worked in an off licence and for Uber Eats.
- d) The hours applied for were normal hours and he would report any street drinking to the police.

The Chairman invite Cllr Idrees to make his presentation, and as such he made the following statements: -

- a) He had lived in the area for 14 years and knew the community well. There were 3 primary school in the area.
- b) Due to the number of schools in the area, there were lots of families early in the morning, lunchtime and after lunch picking children up.
- c) There were already high levels of anti-social behaviour in the area and serious crime in the vicinity.
- d) That the police had agreed terms but why hadn't they consulted residents.
- e) There had been stabbings resulting in a murder in the area.
- f) It was the local residents who suffered.
- g) Opening the shop would increase problems for residents.
- h) That there were issues of health and safety, he thought there wasn't enough staff to manage the shop.
- i) In the winter most shops closed at 6pm, yet this shop would be open late.
- j) He had his car rear window smashed while it was parked on his driveway, he reported it to the police but they didn't do anything.

k) That dealing with these issues caused suffering to the local community.

In answer to Members questions Cllr Idrees made the following points: -

- a) He didn't know if there was any crime related to the premises.
- b) That he was worried about the premises going forward.
- c) It would have been useful to have been notified about the TENs.

In summing up Cllr Idrees made the following points: -

- That the application didn't meet the four licensing objectives.
- There was high crime in the area.
- Litter and anti-social behaviour was also an issue.
- He was concerned for the community.
- That the people unable to attend should have been listened to.

In summing up June Clarke, on behalf of the applicant made the following statements : -

- The application was submitted and advertised in the correct way.
- If Cllr Idrees had concerns about them selling alcohol without a licence he could have introduced himself and spoken to the applicant.
- The applicant had all the necessary tools in place to promote the licensing objectives.
- There was nothing to challenge the application itself, the premises or the designated premises supervisor.
- That her client had no intention of selling alcohol to children or street drinkers.
- She trusted that the panel would give their full attention to the operating schedule.

At this stage the meeting was adjourned in order for the Sub-Committee to make a decision and all parties left the meeting.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and the decision of the Sub-Committee was sent out to all parties as follows;

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RESOLVED:-

At the start of the hearing the Licensing Officer informed the Sub-Committee that the person whose objection was published at Appendix 3 had made application for a further adjournment of the hearing an application which was supported by Councillor Idrees and opposed by the applicant/ his agent.

The Sub-Committee, having considered the adjournment request, resolved to refuse the request for a further adjournment and to proceed with the hearing.

The Licensing Officer introduced the Report and clarified that the premises would have been permitted to sell alcohol on various dates under two Temporary Event Notices (TEN's) which had been submitted prior to determination of this application.

Upon this clarification Councillor Idrees retracted the comments within his initial representation regarding the alleged illegal sale of alcohol. The Sub-Committee noted that Councillor Khan had similarly retracted her own comments regarding the alleged illegal sale of alcohol (in writing, before the hearing). The Sub-Committee therefore disregarded this and any other allegations contained in the representations which were not relevant to determining the application.

Having heard from all parties the Sub Committee resolved that the application by Nabaz Ali-Pour for a premises licence in respect of European and Asian Mini Market, 290 Alum Rock Road, Alum Rock, Birmingham B8 3DD, **BE GRANTED.**

Those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued, together with the conditions agreed with West Midlands Police in advance of the meeting, namely:

- CCTV to be fitted /updated to the specifications of West Midlands Police Central Licensing Team. CCTV to record throughout the whole of the licensable area and will display the correct time and date stamp and be downloadable. There will be at least 1 camera which covers the outside frontage of the premises. CCTV recordings and images will be made immediately available to any of the responsible authorities on request. All CCTV recording will be held for a minimum of 31 days. If the hard drive needs to be replaced for any reason then the old/previous hard drive must be kept on the premises for a minimum of 31 days
- Staff training will also include their responsibilities under the Licensing Act 2003 and premises licence conditions. All staff training will be documented and signed by both the trainer and trainee. No staff, with the exception of personal licence holders, shall work at the premises while it is carrying out licensable activity without this documented training
- The premises will not supply single-use cups with a sale of alcohol
- The DPS will sign off the incident and refusals register weekly

The Sub-Committee determined that the following additional condition, as agreed with Licensing Enforcement in advance of the meeting, should also be added:

- All staff will receive refresher training on the Licensing Act 2003 and Challenge 25 every six months. All staff training will be documented and signed by both the trainer and trainee. All training records to be maintained and to be made available upon request by any regulatory body. No staff to work at the premises until this training has been completed

The applicant had recently taken on the lease of the premises. He was a personal licence holder and would be the nominated Designated Premises Supervisor. He also lived in the area. The premises would be a convenience store offering groceries, fresh meats, a bakery and household goods; the applicant wished to offer an additional service of alcohol sales.

The Sub-Committee deliberated the operating schedule put forward by the applicant, and the likely impact of the application (particularly in the light of the conditions which were agreed in advance of the meeting) and concluded that by granting this application, the four licensing objectives contained in the Act will be properly promoted. The Sub-Committee was particularly reassured by the agreements regarding CCTV and staff training.

Members carefully considered the written representations made by other persons. Those making written representations stated that to grant the application would have a negative impact on the licensing objectives, due to a possibility of an increase in crime, antisocial behaviour, street drinking and litter.

One of these persons, the local Ward Councillor, also attended the meeting and addressed the Sub-Committee directly regarding the risks of an increase in crime and antisocial behaviour. The Sub-Committee found the background information to be useful, and carefully noted all of the Ward Councillor's observations.

However, Members were not convinced that there was an evidential and causal link between the issues raised and the effect on the licensing objectives. Although the Ward Councillor's submissions were focused on the risk of an increase in crime and antisocial behaviour, West Midlands Police had found the application to be satisfactory; they, after all, were the experts in crime and disorder.

Moreover, the applicants had made proper efforts to mitigate against any potential for trouble. As the applicant's representative observed, there was no evidence to justify any belief that the licensing objectives would be undermined by the style of operation proposed.

The Sub-Committee recognised that it was important to balance the legitimate business interests of the applicant with the interests of those objecting, and the submissions made by the applicant's representative had made clear that there was no reason to think that either the operation, or the licence holder, would be incapable of upholding the licensing objectives.

In resolving to grant the application, the Sub-Committee noted that West Midlands Police and Licensing Enforcement had found the application to be

satisfactory, and no representations had been made by any of the other responsible authorities. The concerns of those making representations were taken into account by imposing the agreed conditions, which would allay their apprehensions about the potential for trouble arising in connection with the proposed operation of the premises. The Sub-Committee considers the conditions imposed to be reasonable and proportionate to address the concerns raised.

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 representations received, and the submissions made at the hearing by the applicant, his representatives, and by the Ward Councillor.

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.