

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A 15 FEBRUARY 2021

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD ON MONDAY 15 FEBRUARY 2021 AT 1100 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Phil Davis in the Chair;

Councillors Mary Locke and Bob Beauchamp.

ALSO PRESENT

Bhapinder Nandhra – 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

- 1/150221 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.

2/150221 **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

- 3/150221 No apologies were submitted.
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**LICENSING ACT 2003 PREMISES LICENCE – GRANT – ANNA STORE, 96
RESERVOIR ROAD, ERDINGTON, BIRMINGHAM B23 6DL**

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

(See document No. 1)

On Behalf of the Applicant

Patrick Burke – Agent
Sujeetha Piraparan – Applicant

Those Making Representations

Malcolm Oliver – Local Resident

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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, Bhapinder Nandhra to outline the report.

Afterwards, the Chairman invited the applicant or their representative to outline their application, at which stage Patrick Burke made the following points: -

- a) That the premises had a variety of uses over a short space of time, such as; dealing car parts, a gaming shop.
- b) His client was looking to open a sustainable and suitable business operating at the premises.
- c) His client came from a family with a wealth of experience in the trade – her father had previously operated a shop in Aston and she had worked at ‘One Stop’ for 3 years.
- d) She had the opportunity to take over the business with her family’s support. Her parents would work alongside her in the shop.
- e) Having considered the representations from other persons, they proposed a reduction in hours (08:00 – 22:00).
- f) That the objection at Appendix 1 referred to drugs and parking issues – yet West Midlands Police had made no objection to the application and they had not made reference to any issues.

- g) The objectors were concerned about noise emanating from the shop, however whatever the premises opened as there would be noise, it was inevitable.
- h) Noise was an issue that could be caused by any type of shop.
- i) That the representations stated the premises had already been subject to criminal damage, however it had not been done over the past few days as had been suggested.
- j) The premises would have CCTV recording for 24 hours daily and the recordings would be kept for 31 days. Which will subsequently act as a deterrent.
- k) Mr Burke made reference to the case of Daniel Thwaites plc v Wirral Magistrates' Court, as it emphasized principles and guidance that there should be a light touch bureaucracy and that restrictions should only be attached if necessary, to promote the Licensing Objectives. He added that the representations were speculative and not based on real evidence.

In answer to questions from Members, Patrick Burke on behalf of the applicant made the following points: -

- a) The applicant wanted to open a convenience store and alcohol would make up about 30% of that.
- b) They had agreed a condition already regarding rubbish collections. However, there would not be many deliveries as they would be making trips to the 'Cash and Carry' themselves.
- c) The applicant would be the DPS, however both her mother and father were personal licence holders.
- d) The family had run shops before with no issues.
- e) That a resident did live above the premises but had no objection to them opening a convenience store.

At this stage the Chairman invited Malcolm Oliver to make his submissions and as such, he made the following points: -

- a) That the shop was located on Reservoir road and there were houses situated across the way. He could see that the residents locally would use the store.
- b) However he was slightly surprised by the percentage of alcohol in the shop, it sounded a lot.
- c) His main concern was around alcohol abuse in the area which had been further highlighted by Covid-19.

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- d) The Methodist Church was serving food to local people to help them survive, however they had to start serving later in the day because they were having issues with people drinking and intimidating children. They used to start serving at 9am, however they now began serving at 10:30am.
- e) The children were frightened.
- f) He was thinking of setting up Street Pastors.
- g) His concern was that if the shop opened the alcohol addicts would find their way to the shop too early in the morning.
- h) He would meet people with alcohol in hand on his daily morning jog at 6/7am.
- i) They had a real issue in the area.
- j) That serving food was not a problem, but 30% alcohol was a lot.
- k) He was astonished that the police hadn't made representations as they were going around the local shops asking them to put in voluntary controls of alcohol sales.
- l) That we should be thinking of reducing the number of licensed premises in Stockland Green.
- m) The premises can open at 6am but should not serve alcohol until after the children are in school, 10am would be more reasonable.

In answer to Members questions Malcolm Oliver made the following points:-

- a) That there were several schools in the local area, one of which was very close to the Methodist Church. He had witnessed people buying alcohol and hanging around the area when the children were going to school. The children didn't feel secure and it was intimidating for them.
- b) That there was a continual fight that had got to happen to make sure there was a level playing field in terms of alcohol sales to ensure the situation didn't get any worse.
- c) That the answer should be no as there was already enough premises open.

In summing up Malcolm Oliver made the following points: -

- That he was not opposed to a convenience store that could benefit the community, however it should be there to serve local community and supply basic commodities.
- That they already had a real problem with people drinking inappropriately in the area and he didn't want it to get worse.
- He was concerned for the health and safety of the community.

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In summing up, Patrick Burke, on behalf of the applicant made the following points: -

- That although there had been four representations received from local residents, there had been none from any responsible authorities. There had been no negative feedback from police.
- That the applicant and her family had a wealth of experience and it was a brave thing to be taking on a shop, particularly in the climate we were in.
- That the shop would be empty if it wasn't for the applicant wanting to open a convenience store.
- The applicant would be making improvements to the shop.

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: -

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RESOLVED:-

That the application by Sujeetha Piraparan for a premises licence in respect of Anna Store, 96 Reservoir Road, Erdington, Birmingham B23 6DL, be granted, with the hours for the sale of alcohol to be from 08.00 hours to 22.00 hours daily (as offered by the applicant).

The relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued, together with those conditions as agreed with West Midlands Police, Environmental Health and Licensing Enforcement in advance of the meeting, as follows:

- If for any reason the hard drive of the CCTV system needs to be replaced then the old/previous hard drive is to be retained by the premises for a minimum of 31 days and is to be made immediately available to any of the responsible authorities on request
- Waste shall only be collected and disposed of between the hours of 0700-2100
- All members of staff must receive training regarding the:
 - Conditions attached to the premises licence
 - Four licensing principles contained in the Licensing Act 2003
 - Responsible retailing of alcohol, and the law
 - Protection of children from harm and this must include how to competently check customers' identification where necessary

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- Authorised hours for licensable activities and the conditions attached to the premises licence
- All training provided to staff will be recorded and each member of staff will sign and date the training records to confirm they have received and understood the training and on-going refresher training every six months
- The staff training records will be maintained at the premises and made available to any Responsible Authority upon request

Members carefully considered the representations made by a local resident who attended and addressed the Sub-Committee, but were not convinced that there was an evidential and causal link between the issues raised and the effect on the licensing objectives.

It appeared that the fears of the local resident were based mainly on the prevalence of street drinkers in the Reservoir Road area. The local resident had observed these types standing in the street at all times of day, and as early as 07.30 hours; he was worried that this was a bad influence on local children going to nearby schools.

There was also a further problem – namely the numerous unlicensed houses in multiple occupation in the vicinity. The local resident was concerned that these appeared to be the source of antisocial behaviour and nuisance.

Other persons had made representations which were in the Report. These were taken into account by the Sub-Committee, but were more speculative in nature – for example relating to potential parking difficulties, or allegations of “criminal damage”.

The Sub Committee deliberated the operating schedule put forward by the applicant and the likely impact of the application, including the agreed conditions, and concluded that by granting this application, the four licensing objectives in the Act will be properly promoted. At the start of the meeting the applicant, via her agent, offered to shorten the hours for the sale of alcohol to 08.00 to 22.00, which reassured the Sub-Committee. The agent confirmed that the applicant had experience of selling alcohol by retail, and that her family ran similar convenience shop businesses in the Aston area.

Her parents would be working in the shop with her, and the applicant would be the designated premises supervisor. The Sub-Committee was pleased to note that the applicant and both of her parents were personal licence holders; there would therefore be three personal licence holders associated with the management of the shop. Accordingly, as there would be an experienced team (with a family history in convenience shops) running the operation, it was unlikely that there would be any adverse effect on the

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licensing objectives in granting the application, The agreed conditions had been suggested by the responsible authorities and were comprehensive; the Sub-Committee determined that this was sufficient to allay the fears of those making representations.

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 via her agent, and by those making representations.

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.

Please note, the meeting ended at 1159.