

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A 12 APRIL 2021
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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD ON MONDAY 12 APRIL 2021 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Mike Leddy 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

- 1/120421 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.

2/120421 **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

- 3/120421 Apologies were submitted on behalf of Councillor Davis and Councillor Mike Leddy was the nominated Member.
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LICENSING ACT 2003 PREMISES LICENCE – GRANT – BRITS FOOD & WINE, 15 – 17 STAPLEFORD CROFT, KINGS HEATH, BIRMINGHAM, B14 5QB

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

(See document No. 1)

On Behalf of the Applicant

Janarththanan Vadivel – Applicant
Patrick Burke – Agent

Those Making Representations

Amanita Birchmore – Resident
Dorothy Foster – 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 applicant recently took over the premises and the licence was supposed to be transferred. However, the applicant wasn't aware that the licence had already been surrendered.
- b) The previous hours were 8am-10pm Monday – Saturday and 10am-6pm on Sundays.
- c) The premises had been licensed for 15 years.
- d) There were no objections from responsible authorities.
- e) They had carried out some TENs with no issues.
- f) He emailed the objectors proposing a reduction in hours from 8am-9pm. Only one person responded and subsequently withdrew their representations.
- g) The objectors had issues with the extended hours, and they had attempted to negotiate with them. The objectors had referred to the historic issues at the shop.

- h) The residents were concerned about shop lifters and drug abuse in the area. The particular individual who was causing issues in the shop was a son of the objector and was barred from the store.
- i) They also stated that the police had visited the premises on many occasions, yet the applicant and his agent had spoken to police who didn't have any concerns.
- j) The premises had successfully ran TENs without issues.
- k) The result of the application was a genuine mistake by the previous licence holder.
- l) Mr Burke stated that some of the representations were based on speculation and cited the case of Daniel Thwaites plc v Wirral Borough Magistrates' Court [2008] EWHC 838 (Admin).

In answer to questions from Members, Patrick Burke gave the following responses: -

- a) The applicant worked in a shop in Essex for a number of years. This was his first business, he held a personal licence and would also be the designated premises supervisor.
- b) The applicant lived near Halesowen.
- c) He took over the shop in December 2019 but because of Covid he had kept the shop closed for a little while and it only came to light in January 2021 that the licence had been surrendered.
- d) They used TENs to cover the application period. His client hadn't sold alcohol from the shop since the period for representations ended.
- e) 18th March was the last time he sold alcohol.
- f) He referred to the person who wrote the letter at Appendix 3 – there had been issues in the shop with her son.

The Chairman invited Amanita Birchmore to make her submission, at which stage she made the following points: -

- a) That she moved into her house in 2019 and confirmed that none of her sons had ever been in trouble in the shop.
- b) There was a constant problem with gangs and trouble outside the front of the shop.
- c) There had been issues with shop lifting in the shop.

- d) She didn't have an issue with the hours as they were, but she was not in agreement with the extended hours.
- e) The extended hours until 11pm were not fair, especially to children.
- f) If the hours were the same as before she wouldn't have an issue.
- g) She was offended that there were accusations being made about her son.
- h) She had a good relationship with the shop occupants.
- i) There had been issues with gangs, and shoplifters.
- j) They were on a big estate and it was a low privileged area. People would sit outside the shop on the wall; maybe 6 or more sitting outside. They were often very intimidating, messy and littered in people's gardens.
- k) She appreciated it wasn't down to the shop keepers, but many of the youths sat there because they could get stuff from the shop.
- l) They also played music, screamed and made a lot of noise.

At this stage in the meeting, Dorothy Foster was invited to make her case and made the following points: -

- a) That she lived 2 doors away from the shop and had lived there for about 30 years.
- b) That she didn't realise the original licence was extended to 10pm and she wanted to know when it happened.
- c) There were quite a few youths who congregated outside the shop.
- d) They waited outside for people to go in and get them alcohol and then they would sit outside drinking it and smoking dope.
- e) They also left a lot of mess.
- f) They had been condescending to shop owners and had called the local police. She couldn't understand why the police had said they didn't have any issues.
- g) The police had been trying to put anti-social behavioural restrictions on them.
- h) That the residents had to live in the area, and the applicant didn't.
- i) Druids Heath was in the top 5% of deprived areas.
- j) She was worried about alcohol being given out to people who were struggling with addictions.

- k) She would like to see the hours decreased not increased.
- l) There were already shops that sold alcohol.
- m) She wanted to see more food shops in the area for old people who struggled to get out.
- n) It had been quieter since the store wasn't selling alcohol.
- o) She wanted to see the hours 8am-8pm and 10am-6pm on Sunday.
- p) The licence was not needed and if it was granted it would have a detrimental impact on the area.
- q) There were also issues with littering and bins overflowing.

At this stage Cllr Leddy advised that he did in fact know Mrs Foster as she was an administrator for the Community Centre, he asked Mr Burke if he had any objections.

Mr Burke confirmed he did not.

Mrs Foster added that there were a number of mothers who didn't want the licensed hours. Many of the mothers were dealing with issues of domestic abuse fuelled by alcohol and drugs and did not want more people getting alcohol.

The Chairman invited Mrs Foster to make a closing submission and as such he made the following points: -

- That it was one of the most deprived areas in Birmingham and they didn't need another licensed premises.
- She wanted the hours decreased as stated previously, to something such as 9am-8pm and 10am-6pm on Sundays.

The Chairman invited Amanits Birchmore to make her closing submission at which point she made the following points: -

- That it was a low poverty area and increased hours would have a knock-on impact on crime rates, noise and general pollution in the area.
- She wanted the hours to stay the same or be decreased slightly.

The Chairman invited the applicant and their representative to make a closing submission, at which stage Patrick Burke on behalf of the applicant made the following points: -

- That the shop wasn't selling alcohol currently.

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- The issue with operating as a food only store was that perishable goods were not so readily available and they didn't have the footfall to make it viable, that's why they were applying for an alcohol licence.
- That shoplifters were a problem for all shops, but it was not particularly relevant to the application.
- The shop was previously licensed from 8am-10pm Monday-Saturday and 10am-10pm on Sunday.
- The premises had never been subject to review and the police hadn't made representations.
- His client regularly swept the paths and cleared up the rubbish, which he would continue doing.

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: -

4/120421

RESOLVED:-

That the application by Janarththanan Vadivel for a premises licence in respect of Brits Food & Wine, 15 – 17 Stapleford Croft, Kings Heath, Birmingham B14 5QB, BE GRANTED with the hours of operation to be from 08.00 hours to 21.00 hours daily. Those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will also form part of the licence issued.

The Sub-Committee deliberated the operating schedule put forward by the applicant company, and the likely impact of the application - in particular the offer to shorten the operating hours. The Sub-Committee concluded that by granting this application, the four licensing objectives contained in the Act will be properly promoted.

The premises had been licensed since 2006 with similar hours of operation to the reduced hours now being proposed by the applicants agent, under a previous licence holder, until the applicant recently took the premises on. The applicant explained via his representative that he had experience in retail premises, and would be assisted by a friend in running the shop.

Members carefully considered the representations made by other persons, namely local residents (two of whom addressed the Sub-Committee directly in the meeting), but were not convinced that there was an evidential and causal link between the issues raised and the effect on the licensing objectives. The representations

related to a risk of increased antisocial or nuisance behaviour, and crime such as shoplifting, which the residents felt were associated with youths congregating outside the shop, but it was not likely that a carefully-managed new premises would add significantly to these problems. Shoplifting in particular was a feature of many retail establishments all over the city.

One of those making representations stated that to grant the application would have a negative impact on the licensing objectives, but the applicant's representative cited the case of Daniel Thwaites plc v Wirral Borough Magistrates' Court [2008] EWHC 838 (Admin) in urging the Sub-Committee not to be unduly influenced by speculative representations. The submissions made by the applicant company's representative had made clear that there was no reason to think that either the operation, or the licence holder, would not be capable of upholding the licensing objectives. Moreover, the Sub-Committee noted that no representations had been made by West Midlands Police, or indeed by any of the responsible authorities.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under s182 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 his representative, 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 1101.