

# **BIRMINGHAM CITY COUNCIL**

## **LICENSING SUB-COMMITTEE A**

**MONDAY, 24 JULY 2023 AT 10:00 HOURS**  
**IN ON-LINE MEETING, MICROSOFT TEAMS**

*Please note a short break will be taken approximately 90 minutes from the start of the meeting and a 30 minute break will be taken at 1300 hours.*

### **A G E N D A**

#### **1 NOTICE OF RECORDING/WEBCAST**

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

#### **2 DECLARATIONS OF INTERESTS**

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting.

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

3 **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

**5 - 44**

4 **MINUTES**

To confirm and sign the Minutes of the meeting held on 12 June 2023 at 1000 hours.

To note the public part of the Minutes of the meeting held on 19 June 2023 at 1000 hours

To note the public part of the Minutes of the meeting held on 26 June 2023 at 1000 hours.

To confirm and sign the Minutes of the meeting held on 26 June 2023 at 1200 hours.

To confirm and sign the Minutes of the meeting held on 3 July 2023 at 1000 hours.

5 **OTHER URGENT BUSINESS**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chair are matters of urgency.

6 **EXCLUSION OF THE PUBLIC**

That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-

Exempt information under Paragraph 1 of Schedule 12A of the Local Government Act 1972 - (information relating to any individual).

**PRIVATE AGENDA**

1 **MINUTES**

To note the private part of the Minutes of the meeting held on 19

June 2023 and to confirm and sign the Minutes as a whole.

To note the private part of the Minutes of the meeting held on 26 June 2023 at 1000 hours and to confirm and sign the Minutes as a whole.

2 **LICENSING ACT 2003 - PERSONAL LICENCE APPLICATION**

Report of the Director of Regulation and Enforcement.

NB: Application scheduled to be heard at 1000 hours.

3 **OTHER URGENT BUSINESS (EXEMPT INFORMATION)**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chair are matters of urgency.



## BIRMINGHAM CITY COUNCIL

**LICENSING  
SUB-COMMITTEE A  
MONDAY 12 JUNE 2023**

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE  
A HELD ON MONDAY 12 JUNE 2023 AT 1000 HOURS AS AN ON-  
LINE MEETING.**

**PRESENT:** - Councillor Phil Davis in the Chair;

Councillors Mary Locke and Saddak Miah.

**ALSO PRESENT**

David Kennedy – Licensing Section  
Joanne Swampillai – Legal Services  
Ed Brown – Committee Services

(Other officers were also present for web streaming purposes but were not actively participating in the meeting)

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1/120623      **NOTICE OF RECORDING/WEBCAST**

The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site and that members of the press/public would record and take photographs except where there are confidential or exempt items.

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2/120623      **DECLARATION OF INTERESTS**

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3/120623

**APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

Apologies were submitted by Councillor Higgs. Councillor Miah attended as a substitute.

4/120623

**LICENSING ACT 2003 PREMISES LICENCE – VARIATION JUNGLE LOUNGE, 215 – 218 MONUMENT ROAD, LADYWOOD, BIRMINGHAM, B16 8UU**

The Chair introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider.

The Licensing officer, David Kennedy, explained that the agent was no longer being instructed to represent the applicant.

**RESOLVED:-**

That the application by Jungle Shisha Lounge Ltd to vary the premises licence in respect of Jungle Lounge, 215-218 Monument Road, Ladywood, Birmingham B16 8UU, under section 34 of the Licensing Act 2003, be adjourned to a date outside the statutory hearing window, in accordance with regulation 12 of the Licensing Act 2003 (Hearings) Regulations 2005.

The Sub-Committee heard from the Principal Licensing Officer that there was uncertainty over the arrangements for representation for the premises. The meeting was therefore adjourned so that further enquiries could be made.

The rescheduled hearing date will be announced to all parties as soon as practicable. It will be an online meeting conducted via Microsoft Teams.

4/120623

**GAMBLING ACT 2005 LICENSED PREMISES GAMING MACHINE PERMIT ELIZABETH OF YORK, 12A ST MARY'S ROW, MOSELEY,**

**BIRMINGHAM, B13 8JG**

The Chair explained the hearing procedure prior to inviting the Licensing Officer, David Kennedy, to outline the report.

**RESOLVED:-**

That the application by JD Wetherspoon Plc for the variation of a Licensed Premises Gaming Machine Permit in respect of Elizabeth of York, 12A St Mary's Row, Moseley, Birmingham, B13 8JG be granted.

The Sub-Committee deliberated the application put forward by the applicant company. The Sub-Committee considered the likely impact of the application, and concluded that by granting this application, the three licensing objectives contained in the Act will be properly promoted.

The application was to operate a total of five Category C Gaming Machines within an alcohol licensed premises. Licensing Enforcement had confirmed that everything was in order after carrying out a site visit. The Sub-Committee therefore granted the variation as requested.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Principles, the Guidance issued under section 25 of the Gambling Act 2005 by the Commission, the application for a Licensed Premises Gaming Machine Permit, and the written representations received.





## BIRMINGHAM CITY COUNCIL

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| <p><b>LICENSING<br/>SUB-COMMITTEE A<br/>19 JUNE 2023</b></p> |
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**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD  
ON MONDAY 19 JUNE 2023 AT 1000 HOURS AS AN ON-LINE MEETING.**

**PRESENT:** - Councillor Mary Locke in the Chair;

Councillors Saddak Miah and Julien Pritchard

**ALSO PRESENT**

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

(Other officers were also present for web streaming purposes but were not actively participating in the meeting)

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1/190623

**NOTICE OF RECORDING/WEBCAST**

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2/190623

**DECLARATION OF INTERESTS**

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

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**APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

3/190623 Apologies were submitted on behalf of Councillors Phil Davis and Simon Morrall and Councillors Saddak Miah and Julien Pritchard were the nominated substitute Members.

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**EXCLUSION OF THE PUBLIC**

4/190623 That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-

Exempt information under paragraph 1 of Schedule 12A to the Local Government Act 1972 - (information relating to any individual)

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## BIRMINGHAM CITY COUNCIL

**LICENSING  
SUB-COMMITTEE A  
MONDAY 26 JUNE 2023**

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE  
A HELD ON MONDAY 26 JUNE 2023 AT 1000 HOURS AS AN ON-  
LINE MEETING.**

**PRESENT:** - Councillor Phil Davis in the Chair;

Councillors Mary Locke and Saddak Miah.

**ALSO PRESENT**

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

Applicants:

Mr Singh – Applicant Company Director  
Professor Roy Light – Barrister  
Richard Baker – Agent

Representations:

Hurum Taj – West Midlands Police (WMP)  
Sergeant Lampitt - West Midlands Police  
Rakesh Soni – Soho Road Bid  
Shurnjeet Singh  
Mani Gill

(Other officers were also present for web streaming purposes but were not actively participating in the meeting)

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1/260623 **NOTICE OF RECORDING/WEBCAST**

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](http://www.civico.net/birmingham)) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

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2/260623 **DECLARATION OF INTERESTS**

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting.

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

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3/260623

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

Apologies were submitted by Councillor Davis. Councillor Donaldson attended as a substitute.

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4/260623

### **MINUTES**

That the Public section of the Minutes of the meeting held on 5 June 2023 at 1000 hours was noted, and the Minutes as a whole were confirmed and signed by the Chair.

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### **LICENSING ACT 2003 PREMISES LICENCE – GRANT SOHO ROAD CONVENIENCE STORE AND POST OFFICE, 206 SOHO ROAD, HANDSWORTH, BIRMINGHAM, B21 9LR**

The Chair introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider.

The Chair invited the applicant to make their submission and Professor Roy Light, on behalf of the applicant, made the following statements:-

- a) A note had been sent assisting with outlining the applicant's case. This note was detailed on p169 of the agenda pack. It had been drafted with the benefit of police evidence which had allowed the concerns of WMP to be seen. There had not yet been an opportunity to discuss the issue with WMP.

- b) The premises was a well-established Post Office with a convenience store. Mr Singh had taken over the premises in January 2023.
- c) Post Offices were valuable, but many were closing. As many people were now communicating online rather than going to a Post Office.
- d) The salary for the Post Office was not sufficient to keep the premises operating.
- e) The convenience store was an essential part of the store.
- f) Many elderly people came to the store to collect their pensions and get groceries.
- g) It was hoped that a way through the problems in the area could be found to allow the premises to trade without an increase in difficulties.
- h) The premises was not in a Cumulative Impact Zone (CIZ).
- i) The stores had been reshelved and new fridges had been added.
- j) The off-licence was an important part of the service. The sale of other goods increased by 10-15% due to the off-licence. Most people used the store to buy everything in one place (i.e. wine and an evening meal), they would not use the premises just for food as going to one place saved making two trips.

Mr Singh, director of the applicant company, made the following statements:-

- a) He held a business across the road from the premises which transferred money to India. The business had been vetted by HMRC. The post-mistress was the wife of Mr Singh and had also been vetted.
- b) The people running the premises were used to running regulated premises which needed to comply with rules and regulations.
- c) They had not been involved with licenced trade before, which is why they had employed the agent, Mr Baker. He had found someone (also named Mr Singh) with 11 years of experience, who would be the Designated Premises Supervisor (DPS) for the store. This would mean that there would be an experienced person running the store and the Post Mistress running the Post Office.
- d) Mr Singh had run the business across the road for 11 years and therefore knew the issues in the area regarding street drinkers etc.

and the application had been drafted with this in mind. The concerns of the Police had been addressed.

- e) WMP had made representations, no other residents associations had. Other persons had made representations and the wording of the Soho Road BID had been repeated in the other representations and as such it was a petition rather than original written representations.
- f) Mr Baker had drawn a map to show where those making representations were located. None of the representations were from within 250m of the premises. From outside 250m there were seven representations, six of those had reproduced the representations from the BID manager.
- g) One resident had come forward and there were no letters of representation from them.
- h) Some letters that had come in form letters reproducing the BID were some distance away.
- i) Police had concerns about the area and the application, and they had put together a package protection zone.
- j) BID was an organisation that seemed to be making block objections to any applications for licences in the area.
- k) It was notable that no Councillors were making representations.
- l) Regarding public safety, the Premises itself posed no danger.
- m) Issues such as underage sales were covered and as such was not for consideration from BID.
- n) No Crime and Disorder or Public Nuisance was associated with the Premises. No WMP intelligence was directly linked to the premises.
- o) Shop lifting had been an issue, but this had been an issue for many premises.
- p) Representations from BID seemed automatic rather than based on the application itself and seemed to be a 'backdoor' way of introducing a CIZ.
- q) Street-drinking was the main concern. There was no suggestion that prostitution or drug-use was an issue at the premises. The concern over street-drinking was based on the idea that another outlet would be an opportunity for those who abuse alcohol to get more alcohol. However, the way that the premises was run and the

measures in place meant that there would not be an open opportunity for alcohol abusers to obtain alcohol. The way the application was framed and the way the premise would be run would not undermine the licensing objectives.

- r) Not everyone in Soho Road was an alcohol-abusing troublemaker. There were many respectable ordinary people who lived and worked in the area who used the Post Office. It was suggested that these people should be able to buy wine along with their groceries and Post Office items. The bad behaviour of some people should not prevent the store operating properly to assist the area.
- s) It was thought that generally, street-drinkers wanted large containers of high-strength alcohol for low costs. As such, the store would not sell high-strength beer or cider.
- t) The application had previously included a terminal hour of 8pm. This had been reconsidered due to the evidence from WMP regarding trouble in the area generally starting around 6-7pm. This in mind the store would close at 6pm (opening at 9am).
- u) The stock of alcohol had been reduced and all alcohol would be behind the counter in order to prevent shop-lifting. Staff were also trained to assess the people in the store.

Members were invited to ask questions and Mr Singh and Professor Light gave the following responses:

- a) There were no deliveries on the main road. Waste was collected every other week by a private supplier.
- b) Other licensed premises in the area could be taken into account, however there was no CIZ. It was not known how many of the licenced premises in the area were pubs or shops. As there were so many licenced premises in the area where people could get alcohol, the store would not be introducing a new issue.

Huram Taj of WMP made the following statements:-

- a) The opening hours of the off-licence had been amended.
- b) There was a short stretch of road with a high density of shops with provision to sell alcohol and a high level of crime and disorder occurred.
- c) The local neighbourhood team had been consulted with.

- d) The location was saturated in issues which were of detriment to the community. Problems occurred at all times of day so a reduction in hours would not necessarily help.

Sergeant Lampitt of WMP made the following statements:-

- a) It was believed that the premises would bring a negative impact to the issues of crime, public nuisance and anti-social behaviour (ASB) on Soho Road.
- b) The area was a draw for people with complex unsupported needs. Police conducted controls of the road with bodycameras. The Police worked closely with BID to conduct joint controls. The main issues were ASB, drugs, drunk and disorderly crime and prostitution.
- c) Sergeant Lampitt read out his statement as detailed in the agenda pack at pages 4-5 of WMP's supporting document pack.

Members were invited to ask questions and Mr Taj and Sgt Lampitt gave the following responses:

- a) There were 22 premises in the area licenced for off-sales. The scope of the area had changed drastically. If an additional premises licence was granted then it would be the 23<sup>rd</sup>, arguing that one more licence would not make a difference would mean that the same argument could be applied to the 24<sup>th</sup> and 25<sup>th</sup>. There needed to be a cut-off.
- b) The location was at the widest part of the footpath with benches next to it. It could be a place for homeless people etc to gather. These people would not drink in silence and begging would be persistent. This was another opportunity for vulnerability.

Rakesh Soni – Soho Road Bid, made the following statements:-

- a) Street drinking was impacting all businesses and the residential community. Greggs had closed after constantly complaining about beggars and street drinkers.
- b) He had been a street warden on Soho Road and was now manager. He had observed street drinking and ASC getting worse in the area, including people urinating in the streets. Primary and Secondary School pupils were being exposed to this.
- c) These combined issues impacted the community negatively and there was a need to prevent the problem from becoming worse.



- d) The area was densely populated with vulnerable adults with easy access to alcohol. This was not helping them.
- e) BID operated daytime hours and ASB and street drinking were visible during daytime. Women and children did not feel safe and BID were trying to sort a public protection order.
- f) The application for a licence to sell alcohol had previously been rejected. This carried some weight.
- g) The location was central to the issues.
- h) The Premises was only two doors away from Paddy Power betting shop. ASB was known to happen outside. BID officers had to sort these issues.

Shurnjeet Singh, a local resident, school governor and volunteer, made the following statements:-

- a) People in the community had deep and genuine concerns.
- b) Whilst she appreciated the work of the applicant, the best intentions of the business did not align with the area.
- c) The application was objected to on the grounds of the three licencing objectives.
- d) She agreed with WMP that the area had high levels of crime and ASB.
- e) In the area outside the Post Office there were significant instances of alcoholism.
- f) Public safety in the area had poor health outcomes in relation to alcohol misuse. She had worked with people with these difficulties.
- g) Double the national average.
- h) Regarding the objective of protection of children from harm, there were a lot of children in poverty in the area who were looking to build a better life. Adding another level of alcohol sale was a further risk to children, including exposure to violence, neglect, abuse and underage drinking.

Mani Gill, made the following statement:-

- a) It was important to consider whether the success of the business came at the expense of the community and whether there could be negative consequences to others.

The Chair then invited the parties to make a closing submission.

West Midlands Police made the following closing statements:-

- WMP were concerned about the location of the premises. Off-licences around it could become a central hub for ASB and crime and disorder, especially alcohol-related.
- Whilst the applicant had put in a stringent application, there were still issues and further alcohol in the community would be detrimental.

Rakesh Soni – Soho Road Bid, made the following closing statement:-

- The Community would suffer from this application. It was asked to be rejected.

Shurnjeet Singh made the following closing statement:-

- The application was asked to be rejected.

Mani Gill made the following closing statement:-

- The application would make the situation worse.

Professor Light made the following closing statements:-

- The store provided a valuable service that people needed to use, particularly the Post Office.
- It was not simply for financial reasons that the store was continuing to be operated. People had gone to the store to collect pensions and asked if alcohol could be sold there.
- The applicant had good staff and an experienced DPS. The Post office had rules and procedures.
- The Police had said that it was a stringent application, and the issue was to do with the number of licenced premises in the area.
- Attention was drawn to the conditions in the previous application.
- There had been no representations from Councillors.
- There had been no representations from businesses, the library and Birmingham College.

- Schools had been mentioned but there had been no representations from them.
- It was accepted that there were serious issues in the area, but people were trying to remedy them.
- Some premises could operate, and some could benefit the community.
- Off-licence hours had been limited.
- Police evidence had not contained the timings of what they had talked about.
- On the balance of probabilities, this licence would not negatively impact the licensing objectives.
- Public health was not an objective and there had been no representations from public health bodies.

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

5/260623

**RESOLVED:-**

That the application by Bappa Ltd for a premises licence in respect of Soho Road Convenience Store and Post Office, 206 Soho Road, Handsworth, Birmingham B21 9LR, be refused. In reaching this decision, the Sub-Committee was mindful of the promotion of the prevention of crime and disorder and public nuisance objectives in the Act.

The Sub-Committee's reasons for refusing this application for a premises licence are due to concerns expressed by West Midlands Police, and by other persons, regarding the impact of the proposed operation on the particular locality of the premises in an area closely associated with crime, disorder and antisocial behaviour of all kinds.

The Sub-Committee carefully considered the operating schedule put forward by the applicant and the likely impact of the application, but were not persuaded that the proposed operation of the premises would satisfactorily promote the licensing objectives in a challenging area; nor did the Sub-Committee feel that the conditions could be modified to an extent sufficient to mitigate against the risks to the licensing objectives.

At the start of the meeting the parties were introduced. The applicant was a limited company, the sole director of which was Mahinder Singh, who attended the meeting. He was represented by counsel and also a licensing consultant who had assisted with submitting the application and

the supplementary training manual; both of these documents were in the Committee Report.

The persons who had attended to make representations were as follows: West Midlands Police – an officer from the Central Licensing Team and also the Police Sergeant who was the supervisor for the Lozells and East Handsworth Neighbourhood Police Team; the Soho Road BID Manager; a local resident (who was also a community volunteer and housing advocate); and a director of the Soho Road BID.

Counsel for the applicant company drew the Sub-Committee's attention to his written submission in support of the application; this was in the Committee Report. It had been drafted with the benefit of seeing the Police evidence, which had allowed the applicant company to see the full extent of the Police concerns regarding the application; thereafter some further modifications had been made in light of the Police concerns. The applicant company hoped that the Police would be reassured by the modifications which had been offered.

The background of the premises was that it was a well-established post office with a convenience store. The company director, Mr Singh, had taken the store over in January 2023. Counsel observed that post offices in general provide a valuable service to the local community; he noted that many post offices were closing.

Counsel explained that the income from the post office was not sufficient to keep the premises operating viably, and moreover that a number of services were being taken away from post offices – for example through the rise of online services. However, customers on Soho Road would still go into the shop to buy groceries and drinks. A convenience store was therefore an essential part of a post office nowadays, and counsel felt that trade in the convenience store would perhaps be driven by the post office, namely via “people coming there to get their pensions”.

Mr Singh had found that a number of elderly people who came to use the post office to get their pensions had asked him why he did not sell alcohol with the other convenience store offerings, because they would wish to be able to come to collect their pension, do a bit of shopping and buy a bottle of wine or beer; counsel observed that they would be happier to do that in this particular premises, as opposed to one of the other retailers. Counsel remarked that this was because the area had problems, in particular from antisocial behaviour, and those problems were visited on the people who lived and worked there. The applicant company was keen to find a way through that, in order to allow the post office and convenience store to trade without causing any increase in the difficulties.

Counsel reminded the Sub-Committee that no cumulative impact policy applied to the Soho Road area, and therefore the presumption under the Guidance issued under s182 of the Act was that the licence would be

granted unless it was proven on the balance of probabilities that a grant would undermine the licensing objectives. The Sub-Committee noted this.

Counsel assured the Sub-Committee that the premises would be able to trade without any adverse effects; the store had been reshelved and refrigeration units had been installed to improve the convenience store operation. An off-licence was an important part of that service; as well as the income from the sale of alcohol, there would be a consequent increase of some 10 to 15% in the sale of other goods. Customers wanted to buy all of their grocery items in one place. Industry research had shown that an alcohol offer was an important part of a convenience store service, and that those not selling a full range of convenience products would be at a disadvantage compared to competitors.

The director of the applicant company had knowledge of the area. He operated a separate business which offered money transfers, vetted by HMRC. He was therefore accustomed to complying with regulations. Similarly, his wife was the postmistress and was therefore required to be vetted and to be seen to act responsibly.

The director had been running retail premises for 11 years. Counsel reassured the Sub-Committee that although the director had not previously been in the licensed trade, together the couple were used to running regulated premises which had to conform with particular standards and rules. They intended to appoint a person they had recruited as the designated premises supervisor [DPS]; that person had 11 years' experience as a DPS and intended to come and live in the area. There would therefore be an experienced person running the convenience store for the alcohol and the groceries, and the director's wife as postmistress running the post office.

The director had run the money transfer business regulated by HMRC (from a premises situated across the road) for around 11 years, and therefore knew the issues facing the area. He was aware that there was a serious problem with street drinkers in particular, and the application was originally drafted with that in mind. Counsel had then seen the police evidence, which he described as very comprehensive, and had noted that they had genuine concerns about the application. The redrafted operating schedule had addressed those concerns, he said.

Counsel noted that whilst West Midlands Police had made representations, there had been nothing from any of the other responsible authorities. The only relevant objective was therefore the prevention of crime and disorder objective. A number of other persons had made representations in writing; three of these persons had attended the meeting in person to address the Sub-Committee.

Counsel noted that the wording of the BID representation had been reproduced in twelve of the others; his submission was that the Sub-

Committee should attach less weight to them because of that. He directed the Members' attention to the map drawn up by the agent (which was in the Report) which showed where the people making representations lived.

There were no representations from anybody within 250 metres of the premises, and counsel remarked that no near neighbours (whether businesses or residents) had made a representation. Further on than 250 metres, there were seven representations. There was only one resident, and one local businessperson, other than those from the BID, said counsel; he further noted that of the objections which had duplicated the BID representations, some had come from quite far afield, several miles away to the north and to the east. No Ward Councillors had made representations.

Counsel noted that the Police documents included the material relating to the public protection zone which they had wanted to introduce. He also remarked that the BID was "an organisation which seems to be making block objections to any applications for licences in this area". He observed that the BID representations mentioned the risks to the public safety objective, but he reminded the Sub-Committee that the public safety objective was not in fact engaged, as there was no suggestion of any danger on the premises itself. The protection of children from harm had been mentioned, but that related to the risk of underage sales, and the premises was not yet trading; in any event, underage sales had been covered in the usual way in the operating schedule with the conditions about training, Challenge 25 and what forms of ID would be accepted.

Counsel said that the only relevant objections related to crime and disorder, and perhaps public nuisance, but noted that there had been no past history of this kind associated with the premises itself – the Police Sergeant's statement in the Report confirmed that there was no current intelligence or related crime regarding alcohol misuse connected with the premises. The shop had not caused any issues for the Police, and indeed in the past had only suffered some shoplifting, in common with many retailers.

Returning to the Soho BID representations, counsel remarked that it was a general objection to any licence application in the area; the BID manager had stated that he wished to discuss the possibility of setting a default objection on all new applications for alcohol premises licences within the postcode of the Soho Road Business Improvement District. Counsel observed that this was in effect a request of the Sub-Committee to automatically allow, by way of default, an objection without the BID even seeing the application.

Whilst this would not happen, counsel considered that this "said something about the BID's view towards making representations as far as these applications are concerned", showing that it was simply an automatic objection, rather than one based on the detail of the

application itself; counsel felt that it seemed almost like a back door way of introducing a cumulative impact area when the City Council had chosen not to do so.

Counsel acknowledged that there were genuine concerns from the BID, but reminded the Sub-Committee that the director was alive to them all, having run a business in Soho Road for 11 years.

Street drinkers were the central concern of the Police, together with a range of other issues including prostitution, drugs, use of gas canisters, antisocial behaviour and crime. There was no suggestion that prostitution or drug dealing was a feature of the post office, and it did not sell gas canisters. The issue was therefore only the sale of alcohol, and the effect on the street drinking problem.

The Police objections had been based simply on that possibility – namely the worry that if there were to be another alcohol retail outlet, it would be another opportunity for alcohol abusers to get alcohol. However, the applicant company asked the Sub-Committee to examine the way in which the premises intended to operate in terms of both the opening hours and the operating schedule. Not everybody in Soho Road was an alcohol abuser or other troublemaker; many respectable ordinary people lived and worked in the area, and would be going the post office to buy their groceries and to get their pensions. Counsel asked why they should not also be able to buy alcohol as part of their grocery shopping.

Counsel asked that the Members consider whether the bad behaviour of some should stop the grant of a licence, observing that the post office was an asset to the area and that it was wanted by local people. There was not any great risk of the shop becoming a magnet for street drinkers, because such people wanted high strength and low price alcohol, which would not be part of the offer at the premises.

11 conditions had been offered; one aimed directly at the street drinkers was that no beer or lager above 6.6% ABV would be sold. The terminal hour had been reconsidered in the light of the police evidence relating to nuisance activities such as prostitution; as a result of this, counsel observed, the premises was “basically just a very old fashioned shop” in terms of the opening times. There would be no alcohol sales first thing in the morning, and nor was it open late.

Regarding the plan of the premises, space for alcohol display had been significantly reduced; moreover, it had all been put behind the counter. Customers would not be able to self-select it, but instead would have to come to the counter and ask for it. Should the staff member see that the customer was under the influence of alcohol, they would be able to refuse the sale. Furthermore, in the training manual (in the Report), the staff would be trained to assess the people in front of them and to say no if the alcohol was likely to be abused; they would get to know the

people in the area, including street drinkers, and therefore the operation would be strictly controlled.

Counsel directed the attention of the Sub-Committee to the Guidance issued under s182 of the Act, which advised that shops and supermarkets should normally be free to provide sales of alcohol for consumption off the premises, at any times when that premises was open for shopping, unless the Sub-Committee had good reasons for restricting those hours, such as where they had received Police representations, and in the case of shops known to be a focus of crime and disorder or disturbance.

Counsel reiterated that the premises was definitely not known for any such thing. The problem was in the general area, but that being the case, it meant that the problem was being caused by a number of different outlets. Generally, a cumulative impact area policy would be considered to cover that; however there was not one in force for Soho Road. Counsel asked the Sub-Committee to note that there were no issues with the premises itself, and the hours were going to be 09.00 to 18.00. Deliveries would arrive at the alleyway at the rear; commercial waste collection was every other week via a private supplier.

There were numerous alcohol licensed premises in the area licensed for off-sales of alcohol; counsel remarked that “the fact is that as there are so many there already, we're not introducing something new into the area”, and added, “it's almost like a drop compared to what's already there. It won't make any difference because of the numbers already there”. He reminded the Sub-Committee that there was a different sort of atmosphere in a post office convenience store, because it had a degree of security and formality about it, and also added that the hours were very modest.

Finally, counsel asked the Sub-Committee to reflect on the fact that it must be the case that the street drinkers were getting their alcohol from somewhere. It was clearly not from the post office, which was not yet licensed. Counsel questioned whether the police had made any inroads into trying to find out which of the other (numerous) outlets were selling to people who were street drinking in the area.

The Sub-Committee noted that under paragraph 9.43 – 9.44 of the Guidance issued under s182 of the Act, there was a presumption to grant such applications unless there was good evidence of a risk to the promotion of the licensing objectives. The Sub-Committee therefore looked carefully at whether there was evidence that the proposed operation would in fact have an adverse effect on the licensing objectives by considering the submissions of those making representations.

The Police were aware that the hours had been shortened. They observed that there were 4 licensed gambling premises and 41 premises licences active on the High Street, 30 of which were permitted to sell



alcohol. The location was characterised by high levels of crime and disorder. When assessing the applicant company's ability to uphold the crime prevention objective, and whether the granting of the licence could have detrimental impacts on that objective, the Police had sought local expert knowledge from the neighbourhood Police Sergeant.

The Police Sergeant for Lozells and East Handsworth Neighbourhood addressed the Sub-Committee to direct the attention of the Members to his statement (in the Report). He had been responsible for the Handsworth area for a period in excess of 10 years and was fully aware of the antisocial behaviour and crime trends within that locality. He had also been involved in many civil interventions to reduce crime and antisocial behaviour; he informed the Sub-Committee that alcohol had been the key factor for these.

The objection had been made against the application because the Police were certain that it would negatively impact the already-affected area around Soho Road in terms of crime and antisocial behaviour. The Soho Road had numerous shopping establishments, betting shops and established licensed premises and was known to attract "people with complex, unsupported needs who have chaotic lifestyles". The Neighbourhood Police teams that covered Soho Road worked closely with the BID and other partners, and conducted joint patrols, as well as sharing information.

Due to its proximity to local social housing, the Soho Road location drew individuals who engaged in a range of activities that contributed to crime and disorder and public nuisance. The main issue was antisocial behaviour from drug taking, public drunkenness and disorderly behaviour, prostitution and associated public indecency, and also persistent begging. Criminal activities ranged from shoplifting to public place violence, including the use of weapons, and which had also included serious assaults and grievous bodily harm, and even attempted murder.

These issues therefore formed the principal part of the Police objection. The concern was that the premises would be a licensed location that would encourage groups engaged in public nuisance, crime and disorder. They would centre around or even base themselves at the premises; the Police remarked that "the establishment is likely to be a target itself of crime and disorder".

The already-established licensed premises nearby regularly requested police assistance due to thefts and aggressive customers. This was creating a strain on Police resources. The Neighbourhood team had a large, complex area to cover in addition to Soho Road and the linked roads, and an increase in reports would be detrimental to the wider area who would be unable to access policing resources.

Operation Erasmus had commenced, a multi-agency approach to tackle the ongoing issues of antisocial and drunken behaviour, crime and begging; in addition, there had been numerous operations involving both uniformed and plain clothes officers, as well as using specialist resources such as drones, police dogs and partners such as the BID and the City Council. Community events had been conducted with the assistance of partners and a strong police presence.

Despite this, criminal activities were persistent and ongoing; the Police had observed that local miscreants “seemed to have little fear of the criminal justice system”. This had led to a lack of confidence in the Police and the criminal justice system from shopkeepers and the wider public who used the Soho Road.

A number of dispersal orders had been authorised by senior officers under section 34 of the Anti-social Behaviour Crime and Policing Act 2014, and there was an ongoing application for a public space protection order in and around Soho Road to tackle these persistent issues.

The Police accepted that there was no current intelligence relating directly to the premises; the only reports were of shoplifting going back to August 2022, which was almost a year ago. A nearby space in front of other retailers was used to consume alcohol in public because of the benches and wide footpath. Begging was commonplace, and many of the street beggars had been seen to be alcohol and drug dependent. The alleyway to the rear was known to be used later into the night and in the early hours of the morning for prostitution. Recently the Police had noted an increase in street drinking and aggression a short walk away from the shop, towards the library and Birmingham College.

All in all, the Police considered that the area was plagued by alcohol related antisocial behaviour and to grant the application would add further detriment to the community “with no benefit other than profit for the applicant”. Increased availability of alcohol in the area was likely to create more calls for the police to deal with alcohol related crime at the premises, whether inside (such as shoplifting) or directly outside and in the vicinity.

The Police advised the Sub-Committee that whilst there had been some consideration of the licensing objectives in the application, and practical conditions such as Challenge 25, training, restrictions on the alcohol by volume percentage, CCTV and shortened hours, these were not sufficient to ensure that the crime prevention objective would be promoted. Problems had been observed to occur at all times of the day, so the reduced hours would not in fact lower the risk. Regarding the reduction of the alcohol by volume percentage, the Police felt that persons buying alcohol may not be visibly drunk or intoxicated when purchasing, and would therefore be served by staff without any hesitation.

The Police directed the Sub-Committee's attention to what they called their "hefty evidence bundle". This included a selection of images of the type of antisocial behaviour seen in the vicinity, the enforcement attempts, applications for the public space protection order with associated statements, and a crime map.

The Chairman of the Sub-Committee asked about the risks of adding the instant premises to the number of alcohol-licensed premises already operating in the area. The Police remarked that they could not fully understand the point that had been made, namely that one more premises within an existing number might not make a difference, but pointed out that the nature of the area had dramatically changed over time. Alcohol-related crime had risen over the years, and within the last 12 months had become a very significant problem. Whilst the Police had no concerns about the applicant company, the circumstances in and around Soho Road were a significant worry and drain on resources.

The location was a problem in itself, on the widest part of the footpath, and with benches conveniently situated nearby for use by street drinkers and beggars. The Police fear was that the premises "will become vulnerable. It will become a target and it will become an attraction, and it will be a place to gather" for those renowned for creating problems in Soho Road. The Police had grave concerns that the location of the post office would make it "a central hub and a flashpoint for further antisocial behaviour, crime and disorder", all of which would be alcohol related.

The Police added that the current situation was that such persons would sit and drink alcohol from open containers, in public view of local residents; moreover they did not sit and drink in silence, but congregated in numbers and created disturbance. The begging was persistent, said the Police, from those who would spend the day sitting on the ground demanding money from passers-by whilst drinking alcohol. The Police saw the instant application as "another opportunity of vulnerability" in terms of the burden on the Neighbourhood Police team.

The Police had seen the training manual supplied by the applicant company and accepted that staff at the shop would be appropriately trained. They accepted that the application had taken the licensing objectives into consideration, and also that the company had amended the application further upon seeing the Police evidence by adding stringent conditions, all of which was pleasing.

However, the Police impressed upon the Sub-Committee that their expertise in all matters of crime, disorder and antisocial behaviour had led them to conclude that there were "no conditions that would appease [their] position" in relation to the risks to the crime prevention and public nuisance (antisocial behaviour) objectives; for these reasons the Police strongly urged the Sub-Committee to reject the application in its entirety.

The Sub-Committee then heard from the three other persons, all of whom endorsed the Police submissions and stated that, from their own local knowledge and experience of the Soho Road area, the Police recommendation to reject the application was the only correct course.

The Soho Road BID Manager remarked that the issue was not necessarily that the addition of one more alcohol-licensed business would impact the area. The point was rather that the particular site of the post office was a key location. It was sited at an “absolutely central location to Soho Road” and consequently an increase in crime and antisocial behaviour would have an impact on others.

The Manager represented 750 businesses on Soho Road and had found that the increase in street drinking was impacting every group in the community, both the business community and the residential community. He had observed the area since the days of his previous role as a street warden, and remarked that in recent times antisocial behaviour had significantly worsened due to easily-accessible alcohol.

He said that the BID was keen to reduce the impact on the area, noting that local women and children did not feel safe given that street drinkers had become such a feature of the area. There were nearby schools - two grammar schools, secondary schools and primary schools – and his fear was that local schoolchildren were being exposed to street drinking, antisocial behaviour and public urination on the streets. He remarked that “all of these things combined impact the community very, very negatively”.

He was aware that the area was very densely populated with houses in multiple occupation, and asked the Sub-Committee to note that vulnerable adults in the area would become aware of any nearby licensed premises; easily-accessible alcohol would make the situation a lot worse. He remarked “we are not helping these individuals by making sure that they can easily access alcohol”. Street drinkers started from early morning throughout the day, he said.

The post office location was two doors away from Paddy Power bookmakers; he had observed that those buying alcohol would then go straight to Paddy Power. It was his feeling that the two together (alcohol and gambling) were “feeding off each other” and making the problem a lot worse.

He accepted that the applicant company was not a problem, and that there was not any high likelihood of antisocial behaviour within the premises, but asked the Sub-Committee to note that it had been seen to be happening directly outside the premises. The BID officers and security staff were having to step in to try and prevent, or defuse, problems that were happening directly outside the site.

The BID Manager was keen to ensure a safer area for the wider community; this included businesses and residents. He urged the Sub-Committee to follow the Police advice to reject the application.

The local resident addressed the Sub-Committee next. He was a local school governor and a community volunteer around the Handsworth area; he worked in mental health research and had run a local charity mental health service. He also worked closely with children and young people and was knowledgeable about how “licensing choices can support communities to live their lives to the fullest”.

Regarding the prevention of crime and disorder objective, he wholeheartedly agreed with the comments made by West Midlands Police, recognising that the area had a high level of crime and antisocial behaviour, particularly compared with the national average.

As someone who walked along the Soho Road almost every day, he had seen for himself that the area directly outside the post office was already characterised by significant public intoxication (street drinkers and beggars). He considered that this posed a risk to all – whether residents, businesses, communities or those who experienced alcohol misuse challenges themselves. He was worried about the risks to the community of violence, neglect and abuse caused by irresponsible consumption of alcohol. He urged the Sub-Committee to reject the application as it would undermine the licensing objectives and “would have a negative impact on many, many members of the local community”.

The director of the Soho Road BID then spoke to confirm that he supported the Police representations and felt that the other persons had covered the majority of the concerns that he had. Whilst he supported the right of a local businessman to make a living, he asked the Sub-Committee to consider whether the application was for the betterment of the community or for personal profit, noting that anything which had a negative effect on the crime prevention objective would be to the detriment of the local community. He asked the Sub-Committee to reject the application for the benefit of the local community.

In summing up, counsel reminded the Sub-Committee that the store would in fact provide a valuable service to the local community, as it was not simply a convenience store, but also a post office which local people needed and used. It was indeed a benefit to the area, and was definitely not operated simply for financial reasons; the application had been made to allow the post office and shop to continue to operate, and the service was valued by local people, many of whom had specifically requested that alcohol should become part of the offer there.

Counsel observed that after hearing what the rest of the road was like, the post office was probably something of a haven for people to be able to go there rather than to risk one of the other premises in what sounded like a very difficult area.

The director had wide retail knowledge and would employ an experienced DPS. The premises would have to operate to a particular standard because of the post office; counsel remarked that it was therefore different from some of the other premises in the vicinity.

Counsel noted that the Police had agreed that it was a stringently-conditioned application and had been grateful for it being further modified, yet still felt that the addition of one extra licensed premises was not possible. Nobody had felt that either the company or the director were unsuitable; it was therefore simply a question of “one more”.

Counsel asked the Sub-Committee to consider whether or not it would be better for the community to allow “the limited alcohol for the limited hours requested, in a well-run, well-structured shop, with all alcohol behind the counter” rather than the arrangements perhaps seen at some of the other retailers, where presumably alcohol was being purchased from open shelves.

Counsel observed that to have the shutters being pulled down on any new application at all, as desired by the BID, could not be right. The application was suitable, the director was a responsible person with excellent knowledge of the area and had utilised this knowledge together with the services of a licensing retail consultant; he had also acted on the police evidence and was offering a comprehensive suite of conditions (updated to reflect the Police evidence).

The store would improve the commercial wellbeing of the area, said counsel, and would provide a service to residents. Only one resident (and no Ward Councillors) had objected. No businesses themselves had made representations, only the BID had done so. A library and Birmingham College had been mentioned as being places that had suffered – yet there had been no representation from the library or from Birmingham College; similarly, none of the numerous schools which were mentioned had objected. Counsel asked the Sub-Committee to reflect on the fact that it could therefore well be that these persons did not in fact feel that the grant of the application would undermine the licensing objectives.

Counsel remarked that whilst everyone accepted that there were serious issues in the area, and everyone accepted the good intentions of those working to try and remedy them, it was important that the Sub-Committee should not overlook the fact that some premises could in fact operate in a manner which would benefit the community; those premises should therefore be allowed to have the limited off-licence permissions which they wanted.

Counsel stated that on the balance of probabilities, if granted, the licence would not negatively impact on the licensing objectives. He urged the Sub-Committee to disregard the local resident’s comments about public

health, and mental and physical wellbeing, as there was no public health licensing objective. The only relevant considerations were crime and disorder, and public nuisance.

It was accepted by all that the area was beset by problems, but counsel recommended that the question should be: “will the licence, in the terms applied for and with the management that will operate it, cause any problems?”

Having heard all of the evidence, the Sub-Committee retired to determine the application. The Sub-Committee examined the operating schedule put forward by the applicant company, and considered that under different circumstances the application, the company and the director would all have been satisfactory.

However, in the particular circumstances of the instant matter, the Sub-Committee found the Police observations to carry significant weight. The Police were of course the experts in crime, disorder and antisocial behaviour. Very detailed submissions had been made by both the Police Central Licensing team and also the Police Sergeant with direct responsibility for the Soho Road area. The submissions had been supported by a hefty evidence bundle.

These representations had been compelling evidence of the extent of the problems in the vicinity, as observed by a senior Police Officer with specific knowledge of what was required to ensure that the crime prevention objective would be upheld.

The Sub-Committee was careful to note that there was no cumulative impact policy in force for the area, and therefore the presumption was that the application should be granted in the absence of evidence-based risks to the promotion of the licensing objectives. The Members therefore reflected on all of the submissions, whether written or oral, to ensure that concerns raised were not merely speculative, but based on evidence.

Taking all the evidence into consideration, the Sub-Committee determined that the area was indeed plagued by problem behaviours which were largely driven by alcohol misuse. The Members agreed with the Police that the specific location of the post office premises, situated as it was in a spot which had become renowned as a place for street drinkers to congregate, made the premises very likely to become a magnet for problem individuals of all kinds – whether drinkers, beggars or sex workers. It was apparent from the evidence presented that there was something of a preponderance of these types of persons in Soho Road. They were already known to gather near the premises, due to the wide footpath and benches.

Accordingly, to grant the licence would be a significant risk to the promotion of the licensing objectives of the prevention of crime and disorder, and of public nuisance. The Police recommendation had been

that the only correct course was to reject the application, in order to ensure that these objectives could be upheld. The Sub-Committee noted that the Police's position had also been endorsed by those making representations, all of whom had direct knowledge and experience of the situation in Soho Road and of how matters had worsened over the years.

The applicant company had redrafted the operating schedule and conditions in the light of the Police evidence. This Members would ordinarily have looked favourably upon this, but in this particular case the Police had advised that the modified application was not satisfactory in terms of what was required on Soho Road.

The Sub-Committee gave consideration to whether any measures could be taken to ensure that the licensing objectives were adequately promoted and that therefore the licence might be granted; however, the Police had already advised in the meeting that the licence could not be appropriately conditioned any further, due to the nature of the problems in the area and the specific location of the site. The Sub-Committee therefore resolved to reject the application.

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 information contained in the application, the written representations received and the submissions made at the hearing by the applicant company via its counsel, and by all of 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.

**EXCLUSION OF THE PUBLIC**

6/260623

That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-

Exempt information under paragraph 1 of Schedule 12A to the Local Government Act 1972 - (information relating to any individual)

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## BIRMINGHAM CITY COUNCIL

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| <p><b>LICENSING<br/>SUB-COMMITTEE A<br/>26 JUNE 2023</b></p> |
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**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD  
ON MONDAY 26 JUNE 2023 AT 1000 HOURS AS AN ON-LINE MEETING.**

**PRESENT:** - Councillor Phil Davis in the Chair;

Councillors Mary Locke and Saddak Miah.

**ALSO PRESENT**

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

(Other officers were also present for web streaming purposes but were not actively participating in the meeting)

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8/260623

**NOTICE OF RECORDING/WEBCAST**

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

9/260623

**DECLARATION OF INTERESTS**

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

**APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

10/260623 Apologies were submitted on behalf of Councillor Simon Morrall and Councillor Saddak Miah was the nominated substitute Member.

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**LICENSING ACT 2003 – TEMPORARY EVENT NOTICE – CJ MORE, 143 HOCKLEY HILL, NEWTOWN, BIRMINGHAM, B18 5AN**

**On Behalf of the Applicant**

Kerryn Seale – Applicant

**On Behalf of Those Making Representations**

Mark Swallow – West Midlands Police (WMP)

Martin Key – Environmental Health (EH)

\* \* \*

The Chair introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider.

Mark Swallow confirmed that he had formally withdrawn his representation. He stayed at the meeting in case Members had any questions.

At this stage, the Chair outlined the procedure to be followed at the hearing and invited the Licensing Officer to present his report. Bhapinder Nandhra, Licensing Section, outlined the report.

At this stage the chair invited the applicant to make their presentation and Kerryn Seale made the following points: -

- a) That he was the Director of CJ More Limited. The address for the premises was incorrect, it should be 143 Hockley Hill.
- b) The location of the premises was near a dual carriage way and surrounded by commercial buildings.
- c) The distance from residents to the premises is 220 meters (the nearest residents). The petrol station was also on the roundabout.
- d) There were not any residents close by.
- e) That they were not a hinderance to the residential community.
- f) There were nightclubs in the area which were much closer to residents.
- g) He was a law-abiding citizen and for 3 years he hadn't held any events due to Covid 19.

- h) It was a family business; he was also a builder and had made sure that sound was greatly reduced and would limit the sound inside the premises.
- i) He fed the homeless people on the street out of his own pocket.
- j) He did everything to help the community.
- k) It was his time for the business to flourish.
- l) 40% of all profits went back into the community.
- m) The application was for a 60<sup>th</sup> birthday party.

The Members asked questions and Kerry Seale gave the following responses: -

- a) The residents were around 220 meters away.
- b) They were surrounded by commercial properties.

At this stage the chair invited those making representations to make their presentation and Martin Key EH made the following points: -

- a) That he wanted to share his screen to show the area. (Martin Key shared his screen and showed the area to Members, particularly how close residential properties were).
- b) The nearest residential was a homeless shelter, only 77 meters away. With lots of other residential under 200 meters away.
- c) That the lateness of the application was the primary issue as there was no noise management in place.
- d) There was history with TEN's in Soho Road bar area with a 2am finish that caused issues with noise nuisance when they ended.
- e) There was no history with the premises and no information had been submitted with the application; no noise management plan, noise mitigation, management or any details of what type of noise the event could hold.
- f) There has been no contact from the applicant.
- g) There was no information submitted about access and egress, or how the smoking area would be managed.
- h) That his view was that the residential was too close and there is no noise mitigation submitted with the application. The application wouldn't uphold the licensing objectives and would cause nuisance, they requested that the application be refused.

## Licensing Sub-Committee A – 26 June 2023

The Chair invited all parties to make a brief closing submission. Martin Key, EH, confirmed that he had nothing further to add other than that the application should be refused as there were insufficient controls offered and they had significant concerns over public nuisance.

The Chair then invited Kerryn Seale to make a closing submission, he made the following closing statements: -

- They had a no smoking policy at the venue.
- They had more security than what was recommended by the security firm.
- That he was constantly engaging with everyone to ensure the function ran well.
- He would be monitoring the situation at the venue.
- They were not a nuisance.
- Other premises played loud music that they could hear.
- They deserved a chance.
- He gave to the community and it was a 60<sup>th</sup> Birthday party.

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

### 11/260623 **RESOLVED**

That, having considered the objection notice from Environmental Health in respect of the temporary event notice as submitted by Kerryn Seale, the premises user, for an event to be held on 30 June 2023 at CJ More, 145 Hockley Hill, Birmingham B18 5AN, this Sub-Committee determines that a Counter Notice is not issued under section 105 of the Licensing Act 2003, and therefore the event can take place.

The Sub-Committee is of the opinion that the event should be allowed to proceed at the premises as there is not sufficient evidence to suggest that the premises is related or connected to any public nuisance. It is also noted that there had been no incident at the premises which would indicate that the premises could give rise to public nuisance.

Although some evidence was presented by the Environmental Health department of the City Council, it did not relate directly to the venue or the premises user, or not to any extent that could cause the Members to accept that there was a likelihood that significant public nuisance would arise in connection with the event. Consequently the Sub-Committee, on the balance of probabilities, did not think the premises to be unsuitable for such an event.

At the start of the meeting the Sub-Committee noted that West Midlands Police had attended as they had made representations relating to the prevention of crime and disorder objective. However, the Police immediately notified the Sub-Committee that they were withdrawing their representation because they had received satisfactory documents from the premises user over the weekend. The Sub-Committee therefore noted that the only representation against the temporary event was from Environmental Health.

The Sub-Committee heard first from Mr Kerry Seale, the premises user. He was the director of CJ More Ltd (the venue). He began by clarifying that the address of the premises was in fact 143A Hockley Hill. The Members noted this when viewing the maps which were in the Committee Report. Mr Seale had observed that the main point of concern which had been raised by Environmental Health related to the distance to the nearest residential properties in the area.

The premises user explained that the CJ More premises was situated by the busy dual carriageway leading to the Hockley Flyover, and was surrounded by commercial buildings; indeed it was in the middle of a block of industrial and commercial buildings. The premises user had measured the distance from the premises to the closest residence, and had found it to be 220 metres. He therefore took issue with the suggestion from Environmental Health in the Report, namely that the premises was 150 metres away from the closest residential properties.

He observed that the venue was 200 metres from the Hockley Circus roundabout, and more than 200 metres from the petrol station on the other roundabout. It was also a distance away from the branch of Tesco. He described the premises as “encircled by roads”, and stated that there was no residential property in close proximity. He further noted that on the road further up, towards the city, there were nightclub venues. The Members noted from the maps in the Report that much of the area was designated as commercial and/or industrial, with factories, a depot and several sites described as “works”. A school was located a further distance away.

The premises user queried why he should not be permitted to hold a temporary event, given that during the Covid-19 pandemic he had respected the law by closing the premises for almost three years. It was a family business operated by him and his wife and their two children. He was a builder by trade, and had ensured that the potential for noise nuisance at the venue was limited, via the flooring; he would also ensure that anyone using the premises for a function did not create noise nuisance from music (by limiting the volume of the music played). He had noted that when standing directly outside the site he “could hardly even hear the music inside”.

He was involved in the local community; he and his family had, for the past eight years, “been feeding the homeless people on the streets, out of [*their*] own pockets”. This had especially been the case during the pandemic. He remarked that they had been “doing everything that we could do to help the community”, and that this included youth projects and help for the elderly. He was keen to be able to host events in order that his business could start to flourish.

The proposed event was to be a 60<sup>th</sup> birthday party. The guests would therefore not be restricted to young people, and in any event the premises user was very conscious of the need to be careful about who he allowed to come in to use the venue. He was keen that the premises should preserve its good name.

The Sub-Committee then heard from Environmental Health, who showed the Members the general location via Google Maps. A grey building on the opposite side of the road had recently been converted into a homeless shelter and was 77 metres from the CJ More venue. Thereafter, the nearest residential properties at the rear were on Barr Street, 95 metres away. Other residences were between 150 and 200 metres away.

The Environmental Health officer considered that premises around the area were best described as “mixed use”. He agreed that there were some licensed premises further towards the city centre, as the premises user had outlined, but noted that such premises were all controlled by premises licence conditions. The Sub-Committee was aware that the CJ More venue was not a licensed premises and therefore conditions could not be attached to any temporary event notice.

The officer noted that the site was an extension of an old factory, and was operated as a community use building. It had an external space. The hours for operation had been amended because the original application was for longer, but Environmental Health considered that the primary issue was the lateness of the hour, and the lack of any noise management measures in the application.

Environmental Health had received complaints about other (unrelated) premises in the area around Hockley Hill. Furthermore, last year, during the summer, they had experienced issues with temporary event notices within the Soho Hill/ Barr Street area. These had been linked to parties with finish times of 02.00 and 03.00 hours, which had created complaints about noise. However, the officer could find no history regarding the instant premises.

The officer remarked that he would have expected to see information about the form of entertainment, and also information about the management of noise. Whilst he had heard Mr Seale explain that he would control the volume himself, the officer stated that he considered that the buildings were “not particularly high quality in terms of noise mitigation”. They were single storey with a flat roof; the officer’s opinion was that they would have limited noise attenuation capacity.

As the officer had not been contacted by the premises user he had only been able to consider the application information in the Report, and on that basis, his view was that the location had residential housing nearby. The officer had also observed that there was no external area at the front of the building. There were no noise mitigation measures in the premises and, as it was not a licensed premises, no conditions could be attached to any temporary event notice. There had been no information in the application about access and egress, or people arriving and leaving (and managing the noise created); nor was there any detail about smoking and the use of the outside space.

All in all, the officer was concerned that insufficient controls had been offered. Therefore, the concern was that the temporary event would not uphold the licensing

objective of the prevention of public nuisance. Environmental Health therefore recommended that a counter notice be issued.

In summing up, the premises user confirmed that there was a no smoking policy throughout the whole venue. The premises user declared that he had no intention whatsoever of hosting the style of function that could cause any disruption for anyone in the vicinity, remarking that a 60<sup>th</sup> birthday party would be “a decent event”. He would be careful to stipulate that patrons would have to accept that controls should be put in place, for example regarding security, and assured the Sub-Committee that he was constantly engaging, or would engage, with anyone, concerning the smooth running of the event. He would be at the site and would be monitoring the situation in the venue on the night of the event.

At the end of the meeting the Chairman recommended that the premises user should contact Environmental Health to discuss matters generally.

When deliberating, the Sub-Committee considered all submissions very carefully. The starting point was that there was no risk to the upholding of the crime prevention objective, as West Midlands Police had confirmed that all was in order and had withdrawn their representation.

Although the Sub-Committee carefully considered the submissions of Environmental Health, on the balance of probabilities the Sub Committee did not consider that the proposed event would undermine the public nuisance objective within the Act. Having viewed the location on Google Maps, the Members considered that the homeless accommodation across the road was separated from the premises by a dual carriageway leading to and from the Hockley Flyover; it was therefore some distance away. Moreover, traffic on this busy road would create noise of its own, and at all hours. Other residential property was much further away; the immediate neighbours were all commercial and industrial premises.

It therefore appeared to the Sub-Committee that there was no significant risk in allowing the holding of a 60<sup>th</sup> birthday party as a temporary event, regardless of the fact that there was no possibility of attaching conditions (as the venue was unlicensed); after all, such events were not normally associated with any significant likelihood of public nuisance.

The Members also considered that the premises user was a trustworthy person who had shown a genuine desire to be part of the community, and who would operate in a style which would not disturb local people in the Hockley Hill area. The Sub-Committee felt confident that he would contact Environmental Health after the meeting to discuss the proposed event, and would listen to their comments.

The Sub-Committee has had regard to the evidence, argument and submissions placed before it, in addition to the Report, the Guidance issued by the Secretary of State under section 182 of the Act, and its own Statement of Licensing Policy.

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. No appeal may be

**Licensing Sub-Committee A – 26 June 2023**

brought later than five working days before the day on which the event period specified in the Temporary Event Notice begins.

**The Meeting ended at 1247 hours.**

*Chair*.....



## BIRMINGHAM CITY COUNCIL

**LICENSING  
SUB-COMMITTEE A  
MONDAY 3 JULY 2023**

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE  
A HELD ON MONDAY 3 JULY 2023 AT 1000 HOURS AS AN ON-  
LINE MEETING.**

**PRESENT:** - Councillor Phil Davis in the Chair;

Councillors Diane Donaldson and Julien Pritchard.

**ALSO PRESENT**

Bhupinder Nandhra – Licensing Section  
Joanne Swampillai – Legal Services  
Katy Poole – Committee Services

(Other officers were also present for web streaming purposes but were not actively participating in the meeting)

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1/060723      **NOTICE OF RECORDING/WEBCAST**

The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site and that members of the press/public would record and take photographs except where there are confidential or exempt items.

2/060723      **DECLARATION OF INTERESTS**

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting.

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

## **LICENSING SUB COMMITTEE A – 3 JULY 2023**

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

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3/060723

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

Apologies were submitted by Councillors Locke and Morrall and Councillors Donaldson and Pritchard were the nominated substitute Members respectively.

4/060723

### **GAMBLING ACT 2005 – LICENSING PREMISES GAMING MACHINE PERMIT – THE BILLESLEY, BROOK LANE, KINGS HEATH, BIRMINGHAM, B13 0AB**

The Chair introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider.

The Licensing officer, David Kennedy, explained that the agent was no longer being instructed to represent the applicant.

### **RESOLVED:-**

That the application by Regal Gaming & Leisure on behalf of Greene King Brewing & Retailing Ltd for the variation of a Licensed Premises Gaming Machine Permit in respect of The Billesley, Brook Lane, Kings Heath, Birmingham B13 0AB, be granted.

The Sub-Committee deliberated the application put forward by the applicant company. The Sub-Committee considered the likely impact of the application, and concluded that by granting this application, the three licensing objectives contained in the Act will be properly promoted.

The premises has the benefit of a current Gaming Machine Permit issued under the Gambling Act 2005, which permits 4 Category C machines and 1 Category D machine. The application was to operate a total of 5 Category C Gaming Machines and 1 Category D Gaming Machine, within an alcohol licensed premises.

Licensing Enforcement had confirmed that everything was in order after carrying out a site visit. The Sub-Committee therefore granted the variation as requested.

## **LICENSING SUB COMMITTEE A – 3 JULY 2023**

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Principles, the Guidance issued under section 25 of the Gambling Act 2005 by the Commission, the application for a Licensed Premises Gaming Machine Permit, and the written representations received.

5/060723

### **GAMBLING ACT 2005 – LICENSING PREMISES GAMING MACHINE PERMIT – BLACK HORSE, BRISTOL ROAD SOUTH, NORTHFIELD, BIRMINGHAM, B31 2QT.**

The Chair explained the hearing procedure prior to inviting the Licensing Officer, David Kennedy, to outline the report.

#### **RESOLVED:-**

That the application by JD Wetherspoon PLC for the variation of a Licensed Premises Gaming Machine Permit in respect of the Black Horse, Bristol Road South, Northfield, Birmingham B31 2QT, be granted.

The Sub-Committee deliberated the application put forward by the applicant company. The Sub-Committee considered the likely impact of the application, and concluded that by granting this application, the three licensing objectives contained in the Act will be properly promoted.

The premises has the benefit of a current Gaming Machine Permit issued under the Gambling Act 2005, which permits 6 Category C machines. The application was to operate a total of 7 Category C Gaming Machines within an alcohol licensed premises.

Licensing Enforcement had confirmed that everything was in order after carrying out a site visit. The Sub-Committee therefore granted the variation as requested.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Principles, the Guidance issued under section 25 of the Gambling Act 2005 by the Commission, the application for a Licensed Premises Gaming Machine Permit, and the written representations received.

6/060723

### **GAMBLING ACT 2005 – LICENSING PREMISES GAMING MACHINE PERMIT – THE SPREAD EAGLE, 1146 WARWICK ROAD, BIRMINGHAM, B27 6BL.**

**LICENSING SUB COMMITTEE A – 3 JULY 2023**

The Chair explained the hearing procedure prior to inviting the Licensing Officer, David Kennedy, to outline the report.

**RESOLVED:-**

That the application by JD Wetherspoon PLC for the variation of a Licensed Premises Gaming Machine Permit in respect of The Spread Eagle, 1146 Warwick Road, Birmingham B27 6BL, be granted.

The Sub-Committee deliberated the application put forward by the applicant company. The Sub-Committee considered the likely impact of the application, and concluded that by granting this application, the three licensing objectives contained in the Act will be properly promoted.

The premises has the benefit of a current Gaming Machine Permit issued under the Gambling Act 2005, which permits 5 Category C machines. The application was to operate a total of 6 Category C Gaming Machines, within an alcohol licensed premises.

Licensing Enforcement had confirmed that everything was in order after carrying out a site visit. The Sub-Committee therefore granted the variation as requested.

In reaching this decision, the Sub-Committee has given due consideration to the City Council’s Statement of Licensing Principles, the Guidance issued under section 25 of the Gambling Act 2005 by the Commission, the application for a Licensed Premises Gaming Machine Permit, and the written representations received.

The meeting ended at 1016 hours.

Chair.....