

# BIRMINGHAM CITY COUNCIL

<b>LICENSING SUB COMMITTEE C 22 AUGUST 2018</b>
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**MINUTES OF A MEETING OF  
LICENSING SUB COMMITTEE C  
HELD ON WEDNESDAY 22 AUGUST 2018  
AT 0930 HOURS IN ELLEN PINSENT ROOM,  
COUNCIL HOUSE, BIRMINGHAM**

**PRESENT:** - Councillor Barbara Dring in the Chair

Councillors Neil Eustace and Bob Beauchamp

**ALSO PRESENT**

David Kennedy, Licensing Section  
Joanne Swampillai, Committee Lawyer  
Katy Poole, Committee Manager

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**NOTICE OF RECORDING**

1/220818 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

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**DECLARATIONS OF INTERESTS**

2/220818 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 to be recorded in the minutes of meeting.

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**APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

3/220818 Apologies were submitted on behalf of Councillor Leddy and Councillor Armstrong, Councillor Dring and Councillor Beauchamp were the nominee Members respectively.

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**LICENSING ACT 2003 PREMISES LICENCE – (VARIATION) – HIGHTERS  
HEATH CONVENIENCE STORE, 235-237 HIGHTERS HEATH LANE,  
BIRMINGHAM, B14 4NX**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 1)

The following persons attended the meeting.

**On behalf of the applicant**

Mrs Saraswathidevi Satkunariah – Director and DPS  
Mr Satkunariah – Husband  
Mr Patrick Burke – Agent

**Those making representations**

None of the objectors attended the hearing.

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Following introductions by the Chairman, David Kennedy, Licensing Section, made introductory comments relating to the report.

In response to questions from Members of the Sub-Committee, Mr Patrick Burke, on behalf of the premises, made the following points:-

- a) That his client was the director, and they were residents themselves, therefore, they were familiar with the area.
- b) They also have a shop in Worcester and her husband was the DPS at that premises.
- c) Her husband spends times between the two shops.
- d) They have been at the premises 4 months. However, they had a long history of running licensed premises, including shops, convenience stores and fuel stations.
- e) That they had over 20 years' experience.
- f) That the previous shop owner was still working there along with all the staff, who was personal licence holders.
- g) That they had added a multitude of additional conditions which were not on the original licence and not on licence currently. These will benefit the premises and help "tighten things up". The conditions include specifics about staff training and CCTV.

- h) That after submitting the application, they received a number of objections and after reading them all they decided to reduce the hours. The bulk of the objection concerned the late closing time and they raised concerns about gangs. However, the police have made no representations about gangs.
- i) That they did not think the revised hours had been served on all parties.

Mr David Kennedy, Licensing Officer, advised Mr Burke that those making representations were notified of the change of operating hours and the agreements made with West Midlands Police; however none of the parties wished to withdraw their representations.

Mr Burke continued:-

- a) That they had checked the licensing register and his clients shop was the only one in the vicinity that was not licensed until 2300 hours.
- b) That he would refer to Thwaites as much of the objections were based on “speculation”.
- c) That the objections should be based on evidence.
- d) That his clients had a “wealth of experience”.
- e) That they were not going to do anything that would upset the local residents.
- f) There had been no representations from local authorities.
- g) That they were already licensed from 0700 hours, so they were requesting an extra hour in the morning and some extra time in the evenings. They were currently licensed 0700 hours until 2030 hours.
- h) That there was no evidence to say they were not responsible people.
- i) That the police had no concerns and they were “the experts”.
- j) That the alcohol made up 25-30% of the sales.
- k) That it was a convenience store.
- l) That they would not be opening until 0630 but they want a licence from 0600 hours.
- m) They wanted to open earlier as people come to get their newspapers early.
- n) That they already had CCTV but they have added a condition to state that it would be kept for 31 days.

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- o) That they had included conditions regarding staff training.
- p) They already kept a refusal book and had been operating a challenge 20, but they will be doing challenge 25 from now on.
- q) They would not be buying from walk ins.
- r) They make sure they keep all receipts.
- s) That the other shop they had in Kingsheath was licensed from 0600 – 0200 hours 7 days a week.
- t) That it was a residential area but not in the immediate vicinity.

Mr David Kennedy, Licensing Officer showed Members the local area via Googlemaps on his laptop, he then proceeded to show all parties.

Mr Burke continued:-

- a) That there were two petitions one from the objectors and the one from the shop.

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

- a) That his clients were local residents themselves, they knew the area well.
- b) That the shop had no issues.
- c) That all staff was personal licence holders.

At 1018 hours the Chairman requested all present, with the exception of Members, the Committee Lawyer and the Committee Manager to withdraw from the meeting.

At 1043 all parties were invited to rejoin the hearing, and the decision of the Licensing Sub-Committee was announced.

4/220818

### **RESOLVED:-**

That the application by Highters Heath Convenience Store Limited to vary the premises licence in respect of Highters Heath Convenience Store, 235 – 237 Highters Heath Lane, Birmingham B14 4NX, under section 34 of the Licensing Act 2003, **BE GRANTED subject to the following conditions** in order to promote the licensing objectives:

- The end time for the sale of alcohol by retail and opening hours shall be 23.00 hours daily

- All the additional conditions offered by the applicant shall form part of the Licence

The applicant had originally wanted to sell alcohol / remain open until 01.00 hours (02.00 during weekends). This had given rise to objections from West Midlands Police and also from a large number of local residents. A petition had also been submitted, opposing the original hours requested. The Police and the local objectors both felt that the proposed hours were too late. The Sub-Committee heard that the applicant had held discussions with West Midlands Police, and had come to an agreement with them regarding the hours, such that the Police had withdrawn their objection. The proposed new end time for the sale of alcohol and opening hours being sought at the hearing was 23.00 Sunday to Wednesday , and 00.00 from Thursday to Saturday.

However there remained a number of representations from local residents, which were carefully considered by the Sub-Committee. The residents' objections were mainly around antisocial behaviour and public nuisance in the area, and the risk that these could be exacerbated by permitting sales of alcohol very late at night.

The Sub-Committee heard that the applicant was an experienced operator with around twenty years' previous experience of running various alcohol-licensed convenience shops, and also a petrol station. She lived very close to the premises, within walking distance, and had lived there since 2003. She employed the previous owner of the shop as a member of the current staff, which gave continuity; furthermore all the staff were personal licence holders. There would always be at least two members of staff on duty. She had also volunteered a number of new conditions as part of the application, for example relating to CCTV, staff training and implementation of a Challenge 25 policy, which she had adopted in order to promote the licensing objectives.

Whilst the Sub-Committee accepted that the applicant was capable of proper operation, the close proximity of residential properties was a worry, especially in terms of the potential for public nuisance. It was apparent that the main fear among the local residents who had objected related to any rise in antisocial behaviour and nuisance if alcohol sales were to be permitted very late into the night.

The Sub-Committee therefore determined that the concerns of these local residents could be taken into account by imposing an end time for alcohol sales and opening hours of 23.00 hours daily - and therefore not to grant the request to remain open / permit alcohol sales to 00.00 from Thursday to Saturday. A daily 'end time' of 23.00 for alcohol sales and opening hours would allay residents' apprehensions and ensure that the licensing objectives could be upheld.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the information in the application, the written representations, and the representations made at the hearing by the applicant and their adviser.

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.

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**GAMBLING ACT 2005 VARIATION OF A LICENSED GAMING MACHINE PERMIT – THE ARTHUR ROBERTSON, ONE STOP SHOPPING CENTRE, PERRY BARR, BIRMINGHAM, B42 1AA**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 1)

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Following introductions by the Chairman, David Kennedy, Licensing Section, made introductory comments relating to the report. He also issued Members with a large copy of the site location maps.

At 1058 hours the Chairman requested all present, with the exception of Members, the Committee Lawyer and the Committee Manager to withdraw from the meeting.

At 1103 all parties were invited to rejoin the hearing, and the decision of the Licensing Sub-Committee was announced.

5/220818

**RESOLVED:-**

That the application submitted by JD Wetherspoon PLC for the variation of a Licensed Premises Gaming Machine Permit in respect of The Arthur Robertson, One Stop Shopping Centre, Perry Barr, Birmingham B42 1AA has been considered, and at this interim stage the Sub-Committee is minded to refuse.

As per the Gambling Act 2005 at Schedule 13, paragraph 6, a Licensing Authority may not refuse an application, or grant it in respect of a different category or number of gaming machines, without first notifying the applicant and giving the applicant an opportunity to make representations - either in written form, or oral form, or both. Therefore you are requested to make representations (either written, oral, or both).

The Sub-Committee's reasons for proposing to refuse this application for variation are due to concerns regarding the impact of the proposed operation, given that the premises is a public house frequented by families and therefore children. The Sub-Committee was mindful of the promotion of the licensing objectives, particularly protecting children and other vulnerable

persons from being harmed or exploited by gambling.

The Sub-Committee carefully considered the application, including a policy and procedure document, put forward by the applicant, and also considered the likely impact of the application. However the Sub-Committee was not persuaded that the proposed variation, to increase the number of Category C Gaming Machines, would not pose a risk to protecting children and vulnerable people from harm or exploitation. Safeguarding is taken very seriously in Birmingham and the Members felt that the application as it stood did not give any justification for permitting the variation given the risk of exploitation of children and vulnerable people.

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 Licensed Premises Gaming Machine Permit variation application could be granted; however Members considered that in general the application as it stood was not satisfactory.

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 Report of the City Council's Licensing Department.

The applicant is therefore invited to submit to the Licensing Department any representations they wish to make without delay, and in any event within 28 days of the date of this interim decision. If representations are not received within 28 days then it shall be assumed that the applicant no longer wishes to pursue the application and it will be deemed to have been withdrawn.

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**OTHER URGENT BUSINESS**

6/220818

There was no urgent business.

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