



## **BIRMINGHAM CITY COUNCIL**

### **LICENSING SUB-COMMITTEE - B**

**TUESDAY 4 AUGUST 2020**

**Eden Manna Supermarket, 122 Frances Road, Cotteridge, Birmingham  
B30 3DX**

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That the application by Eden Manna Supermarket Ltd to vary the premises licence in respect of Eden Manna Supermarket, 122 Frances Road, Cotteridge, Birmingham B30 3DX, under section 34 of the Licensing Act 2003, be refused.

The Sub-Committee carefully considered the operating schedule put forward by the applicant, and the likely impact of the variation application, but is not satisfied that the protection of children from harm licensing objective would be promoted, due to the style of management displayed by the applicant - particularly given the observations made by West Midlands Police.

The applicant, via his agent, stated that the application to vary had not been made for any commercial reason; rather, it was because of the applicant's health problems, and to "ease the burden" on him. This was confirmed by the applicant's wife, who also attended the meeting and addressed the Sub-Committee. The applicant did not attend.

The Sub-Committee determined that the variation sought was substantial as it would extend the licensable hours, on all days of the week, far earlier into the hours of the morning and afternoon; moreover, the effect of the proposed operation would extend beyond the licensed premises itself. There was a primary school opposite the shop; there was also a parents' refuge nearby, which the Sub-Committee heard was used by those fleeing domestic violence.

Consequently, significant weight was attached to the representations made by West Midlands Police and a local Ward Councillor, relating to the impact of the proposed operation on those in the neighbourhood, especially children attending the primary school.

Both of those making representations felt that only the existing hours for the sale of alcohol (as determined in the decision of the Sub-Committee in March 2019) gave proper protection from harm for local children. To bring the hours forward, such that alcohol would be on sale from 06.00 hours daily, risked undermining the licensing objective.

In addition, West Midlands Police expressed concerns that the conditions agreed and imposed in March 2019 were not in fact being observed by the applicant. The Police drew the attention of the Sub-Committee to the condition that *'the licence holder shall ensure that at times when the premises are open but alcohol is not for sale that alcohol is not on view and is covered by lockable blinds or shutters.'* Upon attending at the premises at 11.50 hours on a Friday, ie a day when alcohol was not to be sold until 17.30 hours, officers observed that alcohol was openly on display behind the sales

counter in an open fridge and on shelving units, and could be seen from the public footpath.

When spoken to by officers, the applicant had stated that he was aware of his licence conditions and knew that he was in breach of them by displaying alcohol in the premises outside his licensable hours; however he stated that the shop was too small to store the amount of alcohol and that it was impracticable to keep removing it on and off display. This appeared to be a reference to his health condition, which made moving the alcohol difficult.

The Police had also been dissatisfied with the applicant's arrangements regarding CCTV, and considered him to not be following the relevant conditions of the licence. Accordingly the Police had not been persuaded that the new conditions proposed by the applicant would add anything to uphold the licensing objectives; the issue was the applicant's capability in promoting the licensing objectives.

The Sub-Committee agreed with this; the Members were not altogether impressed with the management style described, and noted in particular that the applicant had admitted breaching the condition regarding the display of alcohol outside the licensable hours. Whilst the Sub-Committee accepted that the applicant was providing a service to the community, this type of failure to follow conditions already on the licence hardly inspired confidence that the applicant was a suitable person to have his licensable hours extended such that he would be able to sell alcohol all day, starting from 06.00 hours, or that he would take his responsibilities under the Act seriously. Accordingly, the Sub-Committee resolved to refuse the application.

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 for a variation, the written representations received, and the submissions made at the hearing by the applicant's agent, the applicant's wife, West Midlands Police and the local Ward Councillor.

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.