

BIRMINGHAM CITY COUNCIL

LICENSING SUB - COMMITTEE C - 8 JANUARY 2020

**MINUTES OF A MEETING OF
LICENSING SUB-COMMITTEE C HELD
ON WEDNESDAY 8 JANUARY 2020
AT 0930 HOURS IN ELLEN PINSENT ROOM,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Mike Leddy in the Chair;

Councillors Martin Straker-Welds (AM), Philip Davis (PM) and Neil Eustace.

ALSO PRESENT:

Chris Arundel (Drivers) and Bhapinder Nandhra – Licensing Section
Sanjeev Bhopal – Legal Services
Katy Townshend – Committee Services.

NOTICE OF RECORDING

01/080120 The Chairman advised the meeting that members of the press/public may record and take photographs except where there are confidential or exempt items.

DECLARATIONS OF INTERESTS

02/080120 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests arising from any business discussed at the meeting. If a disclosable pecuniary interest are declared a Member must not speak or take part in that agenda item. Any declarations to be recorded in the minutes of meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

03/080120 Apologies were submitted on behalf of Councillor Nicky Brennan and Councillor Bob Beauchamp was the nominee Member.

**LICENSING ACT 2003 PREMISES LICENCE – GRANT – DELI CASA, 187
HIGH STREET, ERDINGTON, BIRMINGHAM, B23 6SY**

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

Jiger Rashmikanth Patel – Applicant
Philip Colvin – Barrister - QC
Ruthrasingam Sivashankar – Agent

Prior to the meeting starting the Licensing Officer and Committee Lawyer, informed the Committee that the representations had been withdrawn in the last 24 hours, and therefore it was not possible to cancel the meeting. The Committee Lawyer advised the Members of the procedural rules and regulations in relation to the withdrawal of the representations.

* * *

Following introductions by the Chairman, Bhupinder Nandhra, Licensing Section, outlined the current position regarding the withdrawal of the representations (See Document 1a). He advised that he had received an email from the Local Ward Councillors whom had made objections, informing the Licensing Section that they were withdrawing their representations.

The Chairman continued to outline the procedure to be followed during the meeting and enquired as to whether there were any preliminary points at which stage Mr Philip Colvin informed the Committee of the legal consequences of the withdrawal of the representations: -

- ❖ That the process for making applications was governed by Section 17 of the Licensing Act 2003 and further, that the section for determining the applications was at Section 18.
- ❖ Licensing Act 2003 Section 18(1) This section applies where the relevant licensing authority—
 - (a) receives an application for a premises licence made in accordance with section 17, and
 - (b) is satisfied that the applicant has complied with any requirement imposed on him under subsection (5) of that section.

(2) Subject to subsection (3), the authority must grant the licence in accordance with the application subject only to—

 - (a) such conditions as are consistent with the operating schedule accompanying the application, and
 - (b) any conditions which must under section 19, 20 or 21 be included in the licence.

- ❖ 18 (3) Where relevant representations are made, the authority must—
 - (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
 - (b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers [appropriate] for the promotion of the licensing objectives.
- ❖ 18(6) For the purposes of this section, “relevant representations” means representations which—
 - (a) are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives,
 - (b) meet the requirements of subsection (7),
 - (c) if they relate to the identity of the person named in the application as the proposed premises supervisor, meet the requirements of subsection (9), and
 - (d) are not excluded representations by virtue of section 32 (restriction on making representations following issue of provisional statement).
- ❖ 18(7) The requirements of this subsection are—
 - (a) that the representations were made by [a responsible authority or other person] within the period prescribed under section 17(5)(c),
 - (b) that they have not been withdrawn, and
 - (c) in the case of representations made by [a person who is not a responsible authority] , that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
- ❖ Therefore, if the Local Ward Cllrs had withdrawn their representations on Monday there would have been no meeting and the licence would have been granted.

The Chairman requested an adjournment to consider the points made by Mr Philip Colvin and to seek legal advice on the matter.

At 0955 the meeting was adjourned and all parties with the exception of the Members, Committee Lawyer and Committee Manager withdrew from the meeting.

At 1001 the meeting was reconvened and all parties were invited to re-join the meeting and having taken into consideration the legal consequences of the withdrawal of the representations the Committee announced as follows:-

04/080120

RESOLVED:-

That having been informed that those making representations withdrew them on the 7 January 2020 as per the attached email (See document 1a) from Councillor Gareth Moore, but that this withdrawal of representations was not made at least 24 hours in advance of the Committee Meeting, and having heard representations from the applicant’s legal advisor, Philip Colvin, QC it is the decision of this Sub Committee that the application is referred back to the

Licensing Section to process in accordance with the provisions of the Licensing Act 2003.

EXCLUSION OF THE PUBLIC

05/080120

RESOLVED:

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:-
(Paragraphs 3 & 4)

06/080120

ANY OTHER URGENT BUSINESS

No urgent business.

..... Chairman