



BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE - B

TUESDAY 2 JUNE 2020

**A1 Broadnews and Convenience Store Ltd, 83 Broadstone Road, Yardley,
Birmingham, B26 2BY**

That the application by A1 Broadnews and Convenience Store Ltd for a premises licence in respect of A1 Broadnews and Convenience Store Ltd, 83 Broadstone Road, Yardley, Birmingham B26 2BY, be refused.

In reaching this decision, the Sub-Committee was mindful of the promotion of the licensing objectives in the Act, particularly the prevention of crime and disorder and the protection of children from harm.

The Sub-Committee's reasons for refusing this application for a premises licence are due to concerns expressed by West Midlands Police, by Trading Standards and by Licensing Enforcement regarding the close connection between those making the new application and the previous licence holder.

The Police drew the attention of the Sub-Committee to the recent decision notice included in the Report. The decision notice was for the meeting of 11th May 2020, in which the premises licence for the same off licence shop had been examined. The shop was at that time known as 'Yardley Cut Price', with the licence holder being a Mr Abdullah Khan.

The licence held by Mr Abdullah Khan had been revoked at that meeting, after poor management and a lack of responsibility had been found to be undermining the licensing objectives. A test purchase exercise had been carried out in February 2020 by Trading Standards, in which the shop had sold alcohol to an underage teenager without checking age-related ID, or even asking the teenager's age.

The Sub-Committee of 11th May 2020 had been unimpressed with the management style described by the responsible authorities; it had been clear that the shop had not been properly managed, properly staffed, or capable of following the law. The Sub-Committee had not been satisfied that the premises was capable of proper operation.

The Sub-Committee therefore carefully considered the operating schedule put forward by the new applicant, and the likely impact of the proposed operation, but was not persuaded that the applicant company (via its director) was sufficiently separate from the previous licence holder in order that the Sub-Committee could have any confidence that the 'new' management style would be any different from that shown by the previous licence holder. This also applied to the proposed designated premises supervisor.

The Sub-Committee observed from the documents in the Report that Mr Adil Sadiq, the person who had submitted the application describing himself as the 'owner', and who proposed himself as the new designated premises supervisor, had arrived at the

shop during the failed test purchase incident in February 2020. Mr Sadiq had spoken to Trading Standards officers in the shop on that day, and had described himself to them as 'the manager'.

The Police went on to explain that the director of the applicant company, Mr Mir Awais Khan, who was the sole officer of that company, had also been an employee of the previous licence holder (Mr Abdullah Khan). When the Police visited the shop on 10th April 2020, Mr Mir Awais Khan had spoken to them to confirm that he was a 'manager' in the shop and indeed stated that he had been so for three years.

It was therefore clear that both the director of the applicant company (Mr Mir Awais Khan), and the proposed new designated premises supervisor (Mr Adil Sadiq), were closely connected to the previous operation under Mr Abdullah Khan, which had been managed so poorly that its licence had been revoked in May 2020.

The Police were therefore of the view that the application appeared to be an attempt to pass the licence from one person to another so it looked like a new applicant, when in fact the same people were involved; the proposed licence holder and designated premises supervisor were both employed in the shop, and in fact had managerial responsibilities, at the time of the test purchase failure which had led to the revocation of the previous licence. The Police observed that both of them were therefore associated with unsatisfactory operating, and a risk to the promotion of the licensing objectives. Accordingly the Police recommended that the Sub-Committee refuse the application.

The Police recommendation was supported by both Trading Standards and Licensing Enforcement. They each addressed the Sub-Committee to confirm that the close connection to the previous problem management meant that the applicant company could not be a truly separate and new operation with a satisfactory management style.

Licensing Enforcement confirmed that the proposed designated premises supervisor Mr Adil Sadiq had himself once been the licence holder for the shop, namely from 2008 to 2017; at the present time he was the landlord of the property and Mr Abdullah Khan the tenant. The meeting was informed that Mr Abdullah Khan intended to surrender the lease; however this had not yet happened. Trading Standards observed that without a proper change in ownership and personnel, the premises was likely to continue to trade in an unacceptable manner.

The Sub-Committee heard submissions from the applicant company via its legal representative. The applicant company accepted that Mr Sadiq and Mr Awais Khan were indeed linked to the previous operation, but asserted that they personally had "done nothing wrong" in terms of the unsatisfactory trading which had led to the revocation of the licence in May 2020. However the Sub-Committee considered that two gentlemen who had each described themselves as 'manager' to the responsible authorities should be taken to have had a degree of control and responsibility beyond that of mere 'staff', or 'workers'.

The legal representative stated that Mr Abdullah Khan was in the process of surrendering the lease of the shop back to the landlord Mr Adil Sadiq, but had not quite completed it. The Sub-Committee was therefore confused to hear, later in the meeting, the legal representative confirm that Mr Abdullah Khan had filed a Notice of Appeal with the Magistrates' Court (against the decision to revoke), which the legal representative had herself seen; this rather suggested that Mr Abdullah Khan perhaps had little intention of giving up his involvement in the premises. The Sub-Committee again noted the Police's observation in the Report, that the application

appeared to be “an attempt to pass the licence from one person to another so it looked like a new applicant”.

The legal representative also reminded the Sub-Committee that the premises, being an off-licence and convenience shop in the Yardley area, served the community and was a valuable local resource – particularly so given the current Covid-19 pandemic situation. The Sub-Committee would ordinarily have wholeheartedly accepted this, but the issue was the suitability of the operators. Both Mr Sadiq and Mr Awais Khan had been management under the previous unsatisfactory licence holder, and the connections between the two of them and Mr Abdullah Khan were too close for the new operation to truly be a separate professionally-run business; as such the Sub-Committee did not have any confidence in them to take on a new licence, to trade responsibly, or to uphold the licensing objectives.

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 Members considered that neither modifying conditions of the licence, refusing the proposed Designated Premises Supervisor nor excluding any of the licensable activities from the scope of the licence would mitigate the concerns raised by those making representations. The issue was the close connection between the former licence holder and each of the gentlemen making the new 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 legal adviser, and by those making representations.

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