

# BIRMINGHAM CITY COUNCIL

<b>LICENSING SUB-COMMITTEE C 13 JULY 2022</b>
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## **MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 13 JULY 2022 AT 1000 HOURS AS AN ON-LINE MEETING.**

**PRESENT:** - Councillor Sam Forsyth in the Chair;

Councillors Phil Davis and Julien Pritchard.

### **ALSO PRESENT**

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

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

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### 1/130722 **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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### 2/130722 **DECLARATION OF INTERESTS**

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 will be recorded in the minutes of the meeting.

There were no interests declared.

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

3/130722 Apologies were submitted on behalf of Councillors Kooner and Wagg and Councillors Davis and Pritchard were the nominated substitute Members respectively.

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**LICENSING ACT 2003 PREMISES LICENCE – VARIATION – TESCO, 2044  
BRISTOL ROAD SOUTH, RUBERY, BIRMINGHAM, B45 9JL.**

**On Behalf of the Applicant**

Gemma Williams – Tesco Store Manager  
Hardish Purewal - Agent

**No one making representations attended the meeting.**

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The Chairman introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider. No preliminary points were raised.

The Chairman then explained the hearing procedure prior to inviting the Licensing Officer, Bhapinder Nandhra, to outline the report.

The Chair invited the applicant's agent to make their submission and Hardish Purewal made the following statements: -

- a) They were requesting an extension of their current opening hours. They already had a licence.
- b) The reason for the application was due to customer demand.
- c) They were also looking for flexibility and different trading patterns.
- d) They wanted to try different trading hours.
- e) Gemma is the Store Manager.
- f) They only sold selected products. They didn't sell miniatures, only in gift packs, and they didn't sell high strength white ciders.
- g) The team knew the majority of the customers and one employee lived in the local community she knew them well.
- h) 95% of all alcohol sales were linked to other products, it wasn't operating as an off licence.
- i) It was a grocery store offered alcohol.
- j) Only 14 shelves stocked alcohol: 5 for beer, 7 for wine and 2 for spirits.

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- k) They had strong links with the community and took pride in being a good neighbour.
- l) They donated to local food banks and provided thousands of meals to charities annually.
- m) Gemma was happy to join the local community groups.
- n) They were happy to talk to those who made representations and go through any issues.
- o) From a national point of view Tesco took their licensing responsibilities very seriously and championed best practice.
- p) She chaired the retail standards board which looked at how big companies sold alcohol.
- q) They worked in partnership with the statutory authorities and also worked closely with the Home Office.
- r) They provided further training at the checkouts.
- s) They had a programme called 'Eyes Wide Open' which looked at alcohol and theft and focussed on the prevention of theft in store.
- t) They operated a challenge 25 policy and would stop and assess customers requesting ID.
- u) Teams were trained on how to spot drunks so they didn't sell them any more alcohol.
- v) They also provided training on the licensing objectives, proxy sales and underage sales.
- w) They had systems in place at the checkouts which would prompt employees to check for ID when an age restricted product was scanned.
- x) Refresher training was done twice a year.
- y) They had CCTV, panic alarms and all high value items were tagged.
- z) All promotions are set nationally.
- aa) The late night refreshment is for a Costa coffee vending machine.
- bb) The Store Manager would be happy to work with residents around the issues expressed.
- cc) They had agreed conditions with West Midlands Police.
- dd) The store was not problematic.

ee) The application should be granted in line with the trading hours.

The Chair invited questions from Members and Hardish Purewal gave the following responses: -

- a) That everything was taken into consideration and if they were next to a nightclub they wouldn't be proposing to open late.
- b) That she didn't have the facts and figures in relation to theft.
- c) All the conditions suggested by WMP were agreed.

The Store Manager Gemma Williams answered questions from Members: -

- a) That the store had been trading for 8 weeks as Tesco but she had worked for the company for 15 years in different locations.
- b) In her opinion this premises didn't have many accounts of theft, there were only a handful of incidents. There were a few incidents of anti-social behaviour but none of them were associated with alcohol.
- c) They had preventative measures such as hardened CCTV systems, security guards and TV screens monitoring the alcohol shelves.
- d) The store entrance was on the car park, furthest to the right. The entrance was visible from one of the residents who had made an objection.
- e) They had received no complaints of noise nuisance in the 8 weeks they had been trading.
- f) The store entrance did not face onto the Bristol Road.
- g) That after 10pm they had to inform customers that they could no longer sell them alcohol, they had at least 3-4 customers a week that requested it.

The Chair then invited Hardish Purewal to sum up her submissions and she made the following points: -

- That they wanted to work closely with those who had raised objections to the application.
- They would review the hours if they weren't getting enough footfall.
- The application was to trail and test to see what customers want.
- They worked in partnership with statutory authorities and had shown they could uphold the licensing objectives.

- There was no objection from WMP.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and the decision of the Sub-Committee was announced and a copy of that decision was sent to all parties as follows;

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**RESOLVED:-**

That the application by Tesco Stores Ltd to vary the premises licence in respect of Tesco, 2044 Bristol Road South, Rubery, Birmingham B45 9JL, under section 34 of the Licensing Act 2003, be granted with amended hours and the imposition of conditions, as follows.

1. The Sub-Committee resolved that the hours for the carrying out of licensable activities, and for opening to the public, should be amended to 06.00 to 00.00 hours daily
2. Before the meeting, the applicant company had entered into discussions with West Midlands Police, who had confirmed that they approved the application with the addition of some conditions. The Sub-Committee therefore determined that the licence will include those conditions which were agreed between the applicant company and West Midlands Police in advance of the meeting, namely:
  - CCTV to be fitted in the premises with the ability to capture images in all light conditions. Images will be retained for a period of 31 days and will be made available to the responsible authorities to view or copies produced on request
  - If for any reason the CCTV hard drive needs to be replaced, the previous/old hard drive will be kept on site for 31 days and made immediately available to any of the responsible authorities on request
  - All store colleagues will receive training in the licensing objectives and underage sales. No colleague will work at the premises until this training has been completed. Refresher training should take place twice a year
  - Training records to be made available to the responsible authorities on request
  - The premises will operate a Think 25 policy at the premises and signage will be displayed
  - An Incident log will be maintained at the premises and made available to the responsible authorities on request
  - A refusal system will be operated at the premises. When alcohol is scanned a checkout prompt will appear with a date of birth reminder and the cashier will be required to follow the Think 25 training
  - The premises will complete a risk assessment for the requirement of security at the premises
  - Any security guarding will be SIA registered and should provide this licence when requested by the responsible authorities

The amended hours and the agreed conditions were adopted by the Sub-Committee in the interests of promoting the licensing objectives of the prevention of public nuisance and the prevention of crime and disorder. In addition to the above conditions, those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued. The Sub-Committee noted that the applicant company's proposed amendments to the operating schedule removed some provisions which had been adopted in 2018 and which were now out of date.

The Sub-Committee heard from the licensing manager of the applicant company, and also the store manager of the branch. The company was an experienced national retailer with an excellent reputation. It operated 2,800 stores nationally and employed 300,000 staff. The store manager at the Bristol Road South branch was also experienced, having been an employee of the company for fifteen years. The branch in question was a "superstore"-sized premises. There were 21 staff members, four managers and a store manager.

The company took a very responsible attitude to alcohol trading. Alcohol lines had been carefully selected – for examples miniatures were not on sale unless in gift packs, and the shop did not offer white ciders. The company also valued good relations with neighbours; one staff member lived very close to the premises and had been acting as the liaison between the shop and the local community.

The variation application had been made owing to customer demand, as three to four persons per week had been asking to buy alcohol later into the evening, and also because the company had been "looking at different trading patterns for the future". Those from the company stated that if the application were to be granted the shop might not use the full 24 hours of trading time, as they might not get sufficient footfall to warrant this. Instead they would be "trialling and testing what customers want".

The Sub-Committee carefully considered the operating schedule put forward by the applicant company, and the likely impact of the application. The Sub-Committee also took into consideration the views of the three persons who had made representations – the local Member of Parliament, the local Ward Councillor and a local resident living in Malcolm Grove.

The Sub-Committee carefully considered the written representations from the three persons who had objected, and bore in mind paragraph 9.12 of the Guidance issued under s182 of the Act, namely the need for robust evidence in decision making. The representations which had been received were concerned with the potential for public nuisance, especially noise, and also the risk of antisocial behaviour, if the shop were to be allowed to increase its hours to 24-hour trading.

The Sub-Committee noted that there had been no objection from the Environmental Health department of the City Council, and further noted that West Midlands Police had found all to be in order with the addition of some suitable conditions. However, the Sub-Committee was mindful of the fact that the three persons making representations had a high level of local knowledge, and

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accordingly Members accepted the objectors' view that there was indeed something of a risk to the licensing objectives arising from the proposed variation of the premises licence, especially for those living in Malcolm Grove.

The Sub-Committee determined that the concerns of the three persons could be taken into account by adjusting the hours, namely by matching them to the hours which the premises traded every December (this was a seasonal variation currently permitted under the licence). Those from the applicant company had said that they had made the application with the intention of "trialling and testing" the operation; the Sub-Committee considered that the safest way to do this was for the shop to trade to the hours offered every December, which would allay the apprehensions (from the three other persons) about the potential for an adverse effect on the licensing objectives arising in connection with the proposed variation to the operation.

The conditions which had been agreed with the Police would ensure smooth trading, with no risk to the promotion of the licensing objectives. The interests of local residents, particularly in Malcolm Grove, would be protected. The Sub-Committee determined that the company's responsible style of management, and the agreed conditions, would enable the premises to uphold the licensing objectives for the additional hours per day, to operate all year round (not just in December). The Sub-Committee considers the conditions imposed to be appropriate, reasonable and proportionate to address concerns raised.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under s182 of the Licensing Act 2003 by the Home Office, the application for the variation of the premises licence, the written representations received and the submissions made at the hearing by the applicant company via its licensing manager and store manager.

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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**The meeting ended at 1047**

**Chairman.....**