

Members are reminded that they must declare all relevant pecuniary and non-pecuniary interests relating to any items of business to be discussed at this meeting

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE B

TUESDAY, 09 MAY 2017 AT 10:00 HOURS
IN COMMITTEE ROOM 1, COUNCIL HOUSE, VICTORIA SQUARE,
BIRMINGHAM, B1 1BB

A G E N D A

1 NOTICE OF RECORDING/WEBCAST

The Chairman to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Internet site (www.birminghamnewsroom.com) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3 MINUTES

3 - 22

To note the public part of the Minutes of the meeting held on 21 February 2017.

No note the public part of the Minutes of the Meeting held on 7 March 2017.

4 OTHER URGENT BUSINESS

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

5 EXCLUSION OF THE PUBLIC

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:-

Minutes - Exempt Paragraphs 3 and 4

PRIVATE AGENDA

1 MINUTES

To note the private part of the Minutes of the meeting held on 21 February 2017 and to confirm and sign the Minutes as a whole.

To note the private part of the Minutes of the meeting held on 7 March 2017 and to confirm and sign the Minutes as a whole.

2 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847, PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS LICENSES

Report of the Director of Regulation and Enforcement.

(Paragraphs 1 & 7)

3 OTHER URGENT BUSINESS (EXEMPT INFORMATION)

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

BIRMINGHAM CITY COUNCIL

**LICENSING
SUB-COMMITTEE B -
TUESDAY 21 FEBRUARY
2017**

**MINUTES OF A MEETING OF THE LICENSING
SUB-COMMITTEE B, HELD ON TUESDAY, 21
FEBRUARY 2017 AT 1000 HOURS
IN COMMITTEE ROOM 1, COUNCIL HOUSE,
BIRMINGHAM**

PRESENT: - Councillor Lynda Clinton in the Chair

Councillors Alex Buchanan and Bob Beauchamp

ALSO PRESENT

David Kennedy, Licensing Section
Joanne Swampillai, Committee Lawyer
Tayyibah Daud, Committee Manager

NOTICE OF RECORDING

01/210217 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.

APOLOGIES

02/210217 Apologies were submitted on behalf of Councillor Leddy and Councillor Moore. It was noted that Councillor Buchanan and Councillor Beauchamp were the nominated members.

03/210217 **MINUTES**

The Minutes of the meeting held on 21 June 2016 were noted.

LICENSING ACT 2003 CLUB PREMISES CERTIFICATE – REVIEW
STANLEY’S CLUB, 400 KINGSTANDING ROAD, KINGSTANDING,
BIRMINGHAM, B44 8LD

The following persons attended the meeting: -

On behalf of West Midlands Police

PC Abdool Rohomon

PC Vicky Demuth

On behalf of the Club Premises Certificate Holder

There was no one present on behalf of the Premises Certificate Holder. The initial Review application was served by first class recorded delivery by West Midlands Police. The application was returned back to the police, as no one had signed for it, therefore officer's hand delivered the application. In addition, PC Demuth hand delivered the evidence bundle as supporting documents to the premises.

Mr Kennedy confirmed Enforcement officers had visited the premises and placed blue review notices that met the statutory requirements at the premises.

It was agreed by all parties that the Club Premises Certificate Holder had adequate notice and knowledge that there was a meeting present today. It was agreed by Members and all parties that it would be reasonable and proportionate for the meeting to continue in the absence of the Certificate Holders presence.

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

(See documents no. 1)

Following introductions by the Chairman, the main points of the report were outlined by David Kennedy, Licensing Section.

PC Rohomon requested that in view of the fact that CCTV footage that the police proposed to show included sensitive information, that the meeting be conducted in private. This was agreed by Members.

PC Rohomon made representations in private. A separate minute was recorded.

04/210217 **EXCLUSION OF THE PUBLIC**

RESOLVED:-

That in accordance with Regulation 14 of the Licensing Act 2003 (Hearing) Regulations 2005, the public be excluded from the hearing due to the sensitive nature of the evidence to be heard.

PUBLIC

For ease of reference all of the public part of the meeting has been kept together in the Minutes

After PC Rohomon had made representations in private (Minute No 06/210217 refers), the Sub-Committee heard the remainder of the case in public.

PC Rohomon made the following points in respect of his representation and in response to Members' questions: -

1. The plan that was submitted alongside the initial application of the Club Premises Certificate does not reflect the layout which is currently in place at the premises currently.
2. The initial plan showed 8 snooker tables at the premises. However, there are only 4 snooker tables at the premises.
3. There is now a newly-built bar and DJ booth at the premises.
4. No variation application has been received by the Licensing Authority, implying that the Club Premises Certificate Holder is already in breach of his certificate.
5. Members were concerned that the risk assessments of the premises would have been done on the plan that was submitted alongside the initial application. Fire exits and safeguarding would have also been assessed on the plan submitted, however, the layout of the premises is completely different now, and thus the checks and assessment previously taken are not sufficient.
6. It is clear that the each snooker table has the capacity to accommodate 2-3 people. Therefore, there should be a small amount of people at the premises as opposed to the large group of people seen at the premises.

7. PC Rohomon stressed that the guidance issued under section 182 of the Licensing Act 2003, reflects that an Club Premises Certificate are subject to far tighter controls & requirements than a Premises Licence.
8. There are strict rules to become a member. Membership cannot be just attained at the door. It takes two working days for someone to become a member of the club.
9. The club is not licensed to sell alcohol but just supply alcohol to members and guests.
10. PC Rohomon stated that the club were in breach of their procedural rules. (See documents no.2).
11. As the rules state that any members are allowed to introduce guests. The members must enter the name and address of the guest together with their own name in a book. Showing, there should be an audit trail at the premises.
12. However, this had not been complied with and when asked to present evidence of this, the premises were unable to.
13. PC Rohomon stated that it was important to go through the control log to illustrate the issues that had arisen at the premises.
14. The first log received from the premises was on Sunday 15th May 2016. The control log showed a call was received at 0200 hours, stating that a male had been hit on the head with a hammer.
15. Although no evidence of this incident was found, it important to note that the premises was still open at 0300 hours even though the premises certificate is conditioned to close at 0200 hours.
16. On 13th August 2016 a call was received from a member of public stating that there was noise coming from men who were outside the premises. PC Rohomon stated that the premises are situated in a residential area.
17. This log was received at 0126 hours; there is no indication from this log to suggest that the premises were planning to close at their conditioned closing time of 0200 hours.
18. Referring to a log dated Sunday 2nd October 2016, it stated that the individual contacting the police referred to the club as a 'pub'.
19. PC Rohomon stressed that a snooker club which provides snooker /pool tables is referred to as club. However, a pub is usually a place where individuals go to consume alcohol. Therefore, clearly members are not just present at the premises.
20. PC Rohomon stated that the incidents have begun to ramp up and started to cause problems for West Midlands Police.

21. Referring to an incident that occurred on Saturday 8th October 2016 which occurred at 2151 hours. It was clear that a local resident had made a complaint about youths outside the premises that were shouting and drinking.
22. Another log dated 9th October 2016, similarly complained of noise coming from the premises as female was screaming. It is clear that the premises are causing a public nuisance.
23. There is a clear lack of control as to what is happening at these premises as 3 calls had been received in the space of nine days.
24. PC Rohomon stated that the officers that attended the premises would not know the difference between a Club premises Certificate and a Premises Licence, as they are general quick response officers.
25. After receiving emails from officers who visited the premises, Police Licensing Officer, PC Mroczkowski arranged to liaise with the premises on Thursday 13th October 2016. The meeting was attended by the Vice Chairman and Secretary of the club.
26. PC Rohomon stressed that very clear advice was given to the premises. The police have tried to intervene and help the premises to operate in compliance with their Conditions.
27. The log on Boxing Day states there was a suspected stabbing at the premises at 0600 hours. When police arrived at the premises there had been no stabbing at the premises.
28. However, the premises were trading at 0600 hours in the morning and people were asked by the police to clear the premises.
29. PC Rohomon stated that alcohol was not taken from individuals who were leaving the premises in the morning, as the volume of people leaving the premises was very high. Removing alcohol from customers would have just inflamed the situation.
30. All the safety measures that were expected to put in place at the premises were not present.
31. Referring to Police Sergeant Holder's statement, when visiting the premises on Friday 30th December 2016. It was clear that there was cannabis at the premises.
32. There were individuals playing poker, who stated they did not have membership cards.
33. The premises were unable to provide the membership book.

34. It is very apparent that the club are not complying with what the Certificate permits. Without a membership card, no-one is a member of the club and therefore should not be present at the premises.
35. PC Rohomon stated that the premises were not a qualifying club and do not meet the criteria and should have their Premises Certificate revoked under Section 90 of the Licensing Act 2003. However, if the Committee were minded to follow this section the club has a three months window to appeal.
36. PC Rohomon stressed that the premises have operated beyond their scope; the club is operating as a night club and providing regulated entertainment and the sale of alcohol to members of public without a Premises Licence.
37. The premises are now causing the police crime and disorder issues.
38. There is not much the police can do as opposed to if there was a premises licence in place.
39. PC Rohomon requested that under the review powers of section 87, where the premises have 21 days to appeal, the certificate should be revoked.

In summing up, PC Rohomon reiterated the premises have clearly breached the conditions of their Club Certificate. There are clearly very young crowds present at the premises who participate in underage drinking. The plans submitted with the initial application do not reflect the current layout of the premises. There are clear concerns as measures that are expected to be in place at a club are not. There is no control at the premises and the premises should be revoked under section 87.

At 1122 hours the Sub-Committee adjourned and the Chairman requested that all present, with the exception of the Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

After an adjournment, all parties were recalled to the meeting at 1207 hours and the decision of the Sub-Committee was announced as follows:

05/2102117 **RESOLVED:-**

That having reviewed the Club Premises Certificate held under the Licensing Act 2003 in respect of Stanley's Club, 400 Kingstanding Road, Kingstanding Birmingham, B44 8LD upon the application of West Midlands Police this Sub-Committee hereby determines to

WITHDRAW CLUB PREMISES CERTIFICATE UNDER SECTION 88(4)(d) of the LICENSING ACT 2003

That the Club Premises Certificate be withdrawn under section 88(4)(d) of the Act, in order to promote the prevention of crime and disorder and the protection of children from harm objectives in the Act.

The Sub-Committee's reasons for withdrawing the Club Premises Certificate are due to concerns by West Midlands Police in relation to the activities they observed going on at the premises, when called by members of the public on separate occasions in October and December 2016 to attend to deal with problems. These problems included a female screaming, a suspected stabbing, and reports of cannabis being smoked on the premises.

On attending at the premises, the Police observed that the premises could in no way be described as a Snooker Club for private members. It was being run as if it were licensed premises open to the general public. Police observed the premises operating beyond the permitted time of 2am (on one occasion, on Boxing Day morning, when significant Police resources attended to deal with reports of a stabbing, they discovered that the premises had operated all night and were still open at 6am), instances of underage drinking, a noticeably 'young' clientele, noise nuisance through the playing of recorded music, use of nitrous oxide gas canisters & helium balloons, cigarette smoking within the premises, and no Security Guard control over the door.

It was apparent that the playing of snooker was not even part of the operation, as the snooker tables had been covered up and bottles were standing on them. In addition there had been changes to the layout of the premises since the Certificate was granted - for example the removal of some of the snooker tables, and the construction of a bar and DJ booth, which made it akin to licensed premises offering regulated entertainment.

These matters made it plain that the premises no longer met the criteria of a genuine club premises, where the main activity should have been snooker playing, with supply of alcohol to be ancillary to the main activity. Instead, the premises was operating as fully licensed premises offering alcohol and regulated entertainment – a clear breach of the terms of the Certificate.

In addition even the membership requirements were not being observed, as the management were unable to supply the Membership Card/ Guest Book details. Individual patrons who were asked by Police to show their Membership Cards did not have any. No age verification checks had been made, and indeed could not be made, as there were no security arrangements for the front door, and the only staff present were serving behind the bar. It was apparent that admission was being permitted to the general public, not to card-carrying Members and their named guests, as required by the Certificate and indeed the premises' own Rules.

In addition it was noted that the majority of patrons were of a young age, and at least one confirmed to Police that he was under 18 - whilst standing in the street drinking alcohol supplied by the premises as patrons were being asked to leave. This had happened on the Boxing Day morning occasion at 6am, when significant Police resources had to be deployed after reports of a stabbing at the premises. Four days after this, Police were again called to the premises to deal with concerns that patrons were smoking cannabis.

The noise complaints made by local residents concerned noise made in the street by patrons in the early hours. It was noted that residents reported that the patrons, after creating disturbance in the street, then returned to the premises and went back inside, demonstrating that the 2am closing time was not being observed by the management.

No-one from the premises attended the hearing, nor were they represented. However the Sub-Committee were satisfied that the Police had made the premises aware of the hearing properly, through the display of statutory Notices and service of papers by hand-delivery.

The Sub-Committee decided to withdraw the Certificate under section 88(4)(d) of the Act. They were mindful of the provisions of s90 of the Act; however because of the seriousness of what they heard from West Midlands Police they decided to withdraw the Certificate under s88(4)(d) of the Act. Whilst the Sub-Committee were concerned that the premises appeared to be operating in a manner which was no longer consistent with a Club Premises Certificate, of far greater concern were the scale and number of incidents which had taken place at the premises in such a short period of time, which evidenced to the Sub-Committee that the premises were being operated in a manner which was clearly undermining the prevention of crime and disorder objective.

The Sub-Committee gave consideration as to whether it could modify the conditions of the Club Premises Certificate or suspend the Certificate for a specified period of not more than 3 months, but was not satisfied given the evidence submitted, (part of which was heard with the public excluded from the hearing following a request from West Midlands Police, in accordance with regulation 14 of the Licensing Act 2003 (Hearings Regulations) 2005), that the licensing objectives would be properly promoted following any such determination.

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 contained in the application, the written representations received and the submissions made at the hearing by West Midlands Police.

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. The determination of the Sub-Committee does not have effect until the end of the twenty-one day period for appealing against the decision or, if the decision is appealed against, until the appeal is disposed of.

BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE B - TUESDAY 07 MARCH 2017
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**MINUTES OF A MEETING OF
LICENSING SUB COMMITTEE B
HELD ON TUESDAY 07 MARCH 2017
AT 1000 HOURS IN COMMITTEE
ROOM 1, COUNCIL HOUSE,
BIRMINGHAM**

PRESENT: - Councillor Lynda Clinton in the Chair

Councillors Alex Buchanan and Gareth Moore

ALSO PRESENT

Shaid Yasser, Licensing Section
Joanne Swampillai, Committee Lawyer
Tayyibah Daud, Committee Manager

NOTICE OF RECORDING

- 01/070317 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there were confidential or exempt items.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

- 02/070317 Apologies were submitted on behalf of Councillor Ali. It was noted that Councillor Dring had been identified as the nominated member. However, Councillor Dring advised that she would be unable to remain if the meeting continued after 1200 hours and Councillor Buchanan replaced her as the nominated member.

MINUTES

- 03/070317 The public section of the Minutes of the meeting held on 3 January 2017 were noted.

The Minutes of the meetings held on 17 January 2017 and 24 January 2017 were noted.

**LICENSING ACT 2003 PREMISES LICENCE – GRANT SHENLEY
GREEN STORES, 2-3 SHENLEY GREEN, BIRMINGHAM, B29 4HH**

The following persons attended the meeting.

On behalf of the applicant:

Thangarajah Kamalakannan - Applicant
Anil Bhawsar – Licensing Agent on behalf of applicant

Making Representations in respect of the application

Naomi Gilchrist – Counsel for the Bournville Trust
Anthony Kimber – Bournville Village Trust
Jenny Shardlow – Local Resident

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

(See Documents No. 1)

Following introductions by the Chairman, the main points of the report were outlined by Shaïd Yasser, Licensing Section. Mr Yasser confirmed that the representation at appendix 12 in the report has been withdrawn.

Mr Bhawsar, in presenting the case on behalf of the applicant and in response to questions from Members, made the following points:-

1. Mr Kamalakannan has been an established business owner for the last 7 years and has been the owner of two businesses in Coventry.
2. He has now moved to a new area, which he believes is a good area for him to settle down in terms of schooling for his children and in general family life.
3. There are current disputes in regards to the lease of the premises; however, in regards to the licensing objectives Mr Kamalakannan feels he is able to uphold the objectives.
4. He feels he is responsible enough to handle all different situations that may arise.
5. He has taken the time and effort to put in conditions and measures such as: CCTV cameras, health and safety training and having extra staff at the premises.

6. The opening times for this convenience store are 0700 hours to 2100 hours, which is early compared to the closing times of other convenience stores.
7. The licence is being sought as an addition to the currently operating convenience store and newsagent.
8. Only a very small section of the store, approximately 10%, would have alcohol to be sold to the public.
9. There would be CCTV in the area where the alcohol would be placed.
10. Any behaviour from prospective customers would be tackled in the appropriate way.
11. Mr Kamalakannan takes his responsibility as a retailer very seriously. He would be the proposed DPS at the premises and would ensure that all other staff members would be trained; age verification and log registers would be in place at the premises.
12. Mr Kamalakannan shares what the residents feel, however, they can be rest assured as he would make sure all measures implemented are safe; inside and outside the shop.
13. Mr Kamalakannan has 10 years of experience in running convenience stores that sell alcohol.
14. He has never had any issued relating to his licence.
15. There would be two staff members plus himself at the premises.
16. Mr Kamalakannan has had no consultation with the local residents.

Ms Gilchrest through the chair wished to seek clarification in regards to where Mr Kamalakannan is currently residing as it was her understanding that the applicant is still living in Coventry.

17. Mr Kamalakannan stated that he is currently living in Coventry but intends to move to Bournville soon.
18. There is a flat above the premises which is occupied by an individual who has no connection with the business.

Ms Shardlow, presenting the case and in response to questions from Members, made the following points:

1. Referring to plans of the residential area around the shop. Ms Shardlow stated that residents are concerned as there are sensitive areas around the premises.

(See documents no.2).

2. The map of Shenley Green shows little shops, chemist and Church Hall which are used well by the local population,
3. There are retirement bungalows which are occupied by elderly people
4. The route on the way to the shops, Church Hall and surgery is regularly used by young people and elderly people. Elderly people who usually attend the Church or go to the Church Hall would pass the shops.
5. It is an area where many young people come as there is a nursery; that take children out for walks. There are children who go to and back from school also pass the area.
6. There is a youth centre in close proximity; Ms Shardlow stated that the owner of this youth centre was not keen on the idea of children being able to get alcohol.
7. In the evening, people pass who are attending social activities at the Church Hall.
8. In the past there have been problems with the Church car park, in regards to vandalism and drugs. However this has now calmed down.
9. There are places behind shops and garages where residents have stated that young people gather.
10. Ms Shardlow stated that she lives near two off-licences. She stated she regularly has to pick up bottles and alcohol debris.
11. Ms Shardlow stressed area that she lives in, is indeed a pleasant area and that the residents views are expressed in their written representations.
12. Ms Shardlow stated that she is regularly involved with people in the neighbourhood and has been informed by residents, that if the licence is granted, residents would 'vote with their feet' and would not use the shop.
13. She would like the shop to be successful, but not at the expense of 'our nature'.

Ms Gilchrist, presenting the case on behalf of Bournville Trust and in response to questions from Members, made the following points:

1. There is an alcohol restriction zone in place within the immediate area, as there was a problem with anti-social behaviour and crime.
2. People were bringing alcohol within the adjoining area, drinking it and causing problems which resulted in significant disorder.

3. The Police were granted a restricted zone. It has had an effect and made a difference.
4. There are problems with off- licences as they attract youths.
5. With an off-licence one needs absolute confident from the applicant to ensure that no problems would occur.
6. Historically there has been a problem which reflects the fear of local residents, that the grant of this licence may bring issues that took a lot of effort to resolve back.
7. The crimes that occurred in the area have been produced in the bundle (See documents no.3).
8. The figures had come from a website (street check). The figures on this site are uploaded by the police.
9. The exact postcode of the premises has been inputted, the data shows crimes within a mile radius and in the immediate area.
10. Briefly, Ms Gilchrist went through the figures and demonstrated that through the calendar year, the amount of crimes went up or stayed similar.
11. Ms Gilchrist stressed that this was clear evidence that there is an issue within the area.
12. Allowing alcohol to be sold in the area could risk escalating and bringing problems back.
13. Ms Gilchrist stated that it is of concern that the applicant already runs two shops, which are significant distance from Birmingham and that no indication has been given by the applicant as to how much time he is proposing to spend at the premises.
14. There is no confidence on behalf of Bournville Trust that the applicant has tried to find out about the nature of the area, or consult with local residents as per the Guidance issued under Section 182 of the Licensing Act 2003.
15. Due to an error by Bournville Village Trust, the lease that the applicant currently has does not include the relevant clause or covenant prohibiting the sale of alcohol.
16. The applicant does not have sufficient knowledge of the area.
17. Ms Gilchrist stressed that it was misleading for the applicant to state he had moved to the area.
18. It is an area which is used by vulnerable people such as the elderly, young children and youths. There are surrounding open spaces where youths can gather and cause potential issues.

19. The applicant's application has gone nowhere near indicating that the four licensing objectives would be upheld.

Members were concerned that the impression given by the legal representative was that institutions in the area are concerned about this particular off-licence. However, they have not made any objections.

20. Ms Gilchrist stated that she did not intend to give this impression and stressed that there are a number of sensitive areas that may be impacted by an off-licence.
21. A matter of concern was that not many people were aware there had been an application for an off-licence made.
22. Mr Kimber stated that when a manager from the Bournville Trust went to the premises one blue notice was put on calf level and one was 'way up high' and partially covered by a drain pipe.
23. Even though the schools and nurseries have not objected, it does not mean that the Committee cannot take into account young people would be there.
24. The fact that the premises close at 2100 hours rather than 2300 hours makes little difference as an off-licence still attracts youths.

Mr Yasser stated that a Licensing Enforcement officer went out to the premises to check if the notices were displayed in an adequate manner. It had been confirmed that the notices were displayed entirely correctly and met the statutory requirements.

25. The applicant was not aware of the preferences until after dialogue with the Estates Manager, as there was an issue with the lease.
26. There is an issue that something should have been included in the lease.
27. Mr Kimber stated that he feels the sale of alcohol on the Bournville Estate is a very emotive issue.

In order to seek legal advice, at 1109 hours the Chairman requested that all present, with the exception of Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 1112 hours, after an adjournment, all parties were recalled to the meeting and continued.

28. Ms Gilchrist stated that she was concerned that the onerous is on her and her client to prove that the off-licence would undermine the licensing objectives; when it is for the applicant to prove that the objectives would not be undermined in his application.

29. In response to a direct question from the Sub-Committee, Mr Kimber confirmed that within the Bournville estate that there were 'about four' premises that permitted the sale of alcohol.
30. In regards to the lease, Mr Kimber stated that the lease was renewed in 2007 with the previous lease going on for 10 years. The old lease had a standard prohibition of alcohol clause. This clause was missed in the new lease and 'should have been in' the current lease.
31. Mr Kimber stated this is something that the Trust would be seeking to rectify.

Ms Gilchrist, summing up stated that it is for the applicant to demonstrate that if he is granted a licence he would uphold the licencing objectives. In her opinion he has not out forward an application which would reflect this.

The area itself is one that is used and lived in by vulnerable people not only the elderly and young. Ms Gilchrist reiterated that. Historically there had been a problem that needed extensive assistance from the police. There are people who are going to be exposed by groups who gather and intimidated other residents. Premises do not always adhere to conditions; it is only when they are strictly adhered to that a difference is made. There is not a sufficient amount of staff at the premises. Ms Gilchrist stressed this all should be taken into account and the application should be rejected.

In summing up, Ms Shardlow stated that she represents the Shenley network. Mr Shardlow stated that she is part of the Estates Management Committee and represent residents. There are vulnerable people that use the area a lot. The Bournville Estates has always been a desirable area, reflected by property values. After consultation with residents it became apparent that people from both ages of the spectrum were against the grant of this off-licence.

In order to seek legal advice at 1127 hours the Chairman requested that all present, with the exception of Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 1129 hours, after an adjournment, all parties were recalled to the meeting and continued.

Furthermore, Mrs Shardlow stated that she had been informed by other residents that the premises currently provide newspapers to local residents. However, there have been issues in regards of the pay and delivery of the papers. Mr Shardlow stated there would have been more objections if people were aware that an grant application was going through as well as people did not 'expect it to happen' as everyone is aware of the 'Bournville Ethos'.

In summing up, Mr Bhawsar stated that the applicant does understand the concerns the local residents may have. However, he has got sufficient experience

of running an off-licence. The primary objective of the premises is not to be an off-licence as reflected in the plan, only a small area of the premises would sell alcohol. There are other services the premises provide such as a convenience store, lottery, pay point and newsagent. The applicant has experience and would implement measures such as incident logs, challenge 25 policy and staff training.

The applicant has looked at all circumstances before submitting the application. The applicant has discussed with his customers, as the premises has been open for three months, that he was seeking an alcohol licence. The applicant would refurbish the premises and wishes to be a responsible retailer, thus requests that he should be granted the licence.

At 1144 hours the Chairman requested that all present, with the exception of Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

At 1242 hours, after an adjournment, all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

04/070317

RESOLVED:-

That the application by Mr Thangarajah Kamalakannan, for a premises licence in respect of Shenley Green Stores, 2-3 Shenley Green, Birmingham, B29 4HH:

BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS, to promote the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm objectives in the Act:

1. All Conditions as agreed with West Midlands Police in the Police email dated 19th January 2017, namely:

- CCTV to be installed and maintained to the satisfaction of West Midlands Police, the CCTV system to be in full working order at all times when the premises are open for licensable activities
- The CCTV system shall record and store images for a minimum of 28 days, images to be made available to West Midlands Police and Local Authority officers upon request
- An incident log book will be kept and maintained on the premises which will be available for inspection by any of the Responsible Authorities
- A refusal log to be maintained at the premises which will be available for inspection by any of the Responsible Authorities; staff to record all refusals of sale of alcohol

- The premises shall adopt the Challenge 25 Scheme and appropriate signage will be placed at the entrance to the premises and adjacent to the bar servery.
- Members of staff will receive regular training in their responsibilities under the Licensing Act 2003, to include use of the proof of age scheme adopted by the premises, such training to be documented and records shall be retained at the premises and produced to Responsible Authorities upon reasonable request

AND ALSO THE FOLLOWING FURTHER CONDITION:

2. The applicant shall erect prominent, clear and legible signage inside the premises requesting customers to be considerate of local residents when leaving the premises

The Sub-Committee's reasons for imposing these conditions are due to the submissions made by other persons regarding the location and impact of the proposed operation, and the likelihood of nuisance from the premises.

The Sub-Committee carefully considered the operating schedule put forward by the applicant and the likely impact of the application but did not accept that there was evidence of a significant public nuisance, or risk to crime and disorder, or risk to the protection of children from harm, arising from the proposed operation of the premises – especially given that West Midlands Police had agreed Conditions with the applicant.

The Sub-Committee noted that the applicant was a Premises Licence Holder elsewhere, and was accustomed to selling alcohol by retail in his two shops in the Coventry area. The Shenley Green shop was a newsagent and convenience store, and it was proposed that alcohol would be only 10% of the shop floor space (as shown on the Plan); therefore the premises would not be an Off-Licence, but a convenience store offering alcohol. The applicant was intending to refurbish the premises and to move to Shenley Green. The proposed times of operation were examined carefully by the Sub-Committee. They noted that the closing time, namely 9pm, upheld the spirit of the Licensing Objectives.

The concerns of the other persons were taken into account by imposing suitable conditions that would allay their apprehension about the potential for nuisance from arising in connection with the proposed operation of the premises – namely all the Conditions suggested by West Midlands Police, and in addition, a further Condition to display signage.

In hearing the representations from other persons, the Sub-Committee noted that the evidence relating to crime statistics had been taken from a website, not sought directly from West Midlands Police.

The Sub-Committee carefully took into account the objections made by a local resident, which included representations regarding the protection of children from harm objective given that there was a Church, a nursery and also a school in the area. However the Sub-Committee noted that no objections had been made by these organisations themselves. These organisations would have been aware of the application due to the Notices which the applicant had displayed in accordance with statutory requirements.

The Sub-Committee also heard from a person making objections, a representative of the Bournville Village Trust, who confirmed that the Lease of the premises, which had been granted by the Bournville Village Trust, did not include the relevant clause or covenant prohibiting the sale of alcohol. The person making representations on behalf of the Bournville Village Trust stated that this had been omitted from the Lease “due to an error”. Therefore the applicant, through no fault of his own, had taken the premises without being made aware of the preferences of the Bournville Village Trust.

The Sub-Committee also asked if there were other alcohol licensed premises in the Bournville Village Trust area, and were informed that there were “about four” of them.

On examining the Conditions required by West Midlands Police, the Sub-Committee considered those Conditions to be appropriate, reasonable and proportionate to address concerns raised. The Sub-Committee felt that an additional condition, namely that customers behave with consideration for local residents when leaving the premises, would satisfactorily ensure the promotion of the licensing objectives.

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.

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 received and the submissions made at the hearing by the applicant 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.