

BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE A 3 DECEMBER 2018
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**MINUTES OF A MEETING OF
LICENSING SUB COMMITTEE A
HELD ON MONDAY 3 DECEMBER 2018
AT 0930 HOURS IN ELLEN PINSENT ROOM,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair

Councillors Bob Beauchamp and Martin Straker-Welds

ALSO PRESENT

David Kennedy, Licensing Section
Joanne Swampillai, Committee Lawyer
Katy Poole, Committee Manager

NOTICE OF RECORDING

1/031218 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.

DECLARATIONS OF INTERESTS

2/031218 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 to be recorded in the minutes of meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/031218 There were no Nominee members.

**LICENSING ACT 2003 PREMISES LICENCE (GRANT) - HOT PAN
PIZZA, 1242 COVENTRY ROAD, SOUTH YARDLEY, BIRMINGHAM, B25
8BJ**

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

Hussein Nazari – Applicant
Carl Robinson – Solicitor

Those making representations

Martin Keys – Environmental Health

* * *

Following introductions by the Chairman, David Kennedy, Licensing Section, made introductory comments relating to the report.

Mr Carl Robinson, on behalf of the applicant made the following points:-

- a) That they had extended the opening hours to allow the applicant to get the right amount of footfall.
- b) The applicant was on job seekers allowance, and he had taken a loan from the government.
- c) That the business was currently failing.
- d) The application was to keep the business afloat.
- e) That they would be open to a reduction in the hours, but the principle was to keep his business afloat and therefore, they would ideally like the hours they have applied for.
- f) That there application included bullet points about staffing, CCTV, and bin disposal.
- g) That his client wanted the establishment to be respectful.
- h) The hours were essential for his business to operate.
- i) There were numerous takeaways in the area, and admittedly they do not open as late. But he needed these hours for his business.

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In response to questions from Members of the Sub-Committee, Mr Nazari made the following points:-

- a) That the reason he had made the application was due to lots of things; lots of trouble. People were dealing drugs and spending time in the premises causing him trouble.
- b) They have stolen money from him, £1700 from the card machine.
- c) That he was behind on the rent for his landlord. He had no savings and needed to take a risk.

At 1026 hours the meeting was adjourned and all parties, with the exception of the Members, Committee Lawyer and Committee Manager, left the meeting. This was to allow the Licensing Officer to outline the matters to be dealt with in the hearing.

At 1036 hours the meeting was reconvened and all parties were invited to re-join the meeting.

Mr Robinson continued to answer Members questions:

- a) That upon speaking to Environmental Health, it was understood the late opening hours were the biggest issue. They had a discussion outside about what would be acceptable and what wouldn't. The noise coming from the building late at night was a primary concern.
- b) That EH had concerns regarding an increase in disorder outside and an increase in noise.
- c) They would be willing to reduce opening hours.

In response to Members questions, Mr Nazari made the following points:

- a) That there were two shops open till 0130 hours, locally.
- b) That he needed the extra hours or at least until 0200-0300 hours otherwise his business would close.
- c) That he could not afford noise control.
- d) He had updated as much as he could. He would reduce the noise on the property as much as he could.
- e) That he had been in the shop 6 months and had refurbished the premises. He had spent nearly £25,000.
- f) He had created jobs for other people.
- g) He had to provide a business plan for the loan.

- h) That there was a takeaway open 24 hours only a mile away from the premises.
- i) That he would make sure there was no noise.

Mr Robinson made the following points:-

- a) That the noise could be monitored by the council.

Mr Nazari continued:-

- a) That he would make sure there was no noise if he got the extra hours and would have a noise controller.
- b) They would not do deliveries late at night in order to limit noise.
- c) They would have signage.
- d) He would tell staff how to behave and control his staff.
- e) He would have CCTV to control staff and in order to record criminal activity.
- f) He had only one other employee.
- g) He had applied for planning permission.

On behalf of Environmental Health Mr Martin Keys, made the following points:-

- a) That the premises was a three storey property; with the shop, then first floor and second floor was residential.
- b) That the local area was residential.
- c) That properties in the same block has licences until 0130 hours maximum.
- d) That in relation to planning permission they had a 2330 hour restriction. Previous applications had been rejected, yet they had made a new application to mirror this one.
- e) 2300 – 0700 hours was night time hours. Therefore, it would make a difference.
- f) That it was a concern that when the driver was out delivering there was only 1 person in the shop.
- g) There was no dedicated parking.
- h) Flats upstairs and at the side. They had concerns about noise for those residents.

- i) That the premises had a wide range of food, not just Pizza and the extractor system was a 1996 vintage.
- j) There was no apparent odour control. Impact on noise from extractor and odour.
- k) That the application itself would be public nuisance – there were no opposed operating control in terms of noise.
- l) He pointed Members to the conditions he had attached in the documents asking them to consider should they grant.
- m) The main concern was the terminal hour.
- n) That they were refusing the application.

In summing up, Mr Martin Keys, on behalf of Environmental Health, made the following points:-

- That the application was for a premises in a largely residential area.
- The hours were not in keeping with the local area.
- Concerns about the area having drug related issues.
- Significant risk of public nuisance, and therefore, they were refusing the application.
- That if members were minded to grant, he wanted the conditions attached.

In summing up Mr Robinson, on behalf of the applicant made the following points:-

- That they would accept subject to conditions.
- That they accepted why the hours were deemed too long, but Mr Nazari needed the hours otherwise his business would fold.
- He fundamentally needed staff to provide measured and secure the business and reduce noise.
- That they understood EH's concerns.

Mr Nazari added:-

- That he would try and reduce noise as much as possible but he could not afford to do anymore because he was not making and money and needed the application granted in order to keep his business going.

At 1102, the meeting was adjourned. All parties with the exception of Members,

the Committee Lawyer and Committee Manager left the meeting.

At 1120 hours the Chairman requested all present, with the exception of Members, the Committee Lawyer and the Committee Manager to withdraw from the meeting.

4/031218 **RESOLVED:-**

That the application by Mr Hussein Nazari for a premises licence in respect of Hot Pan Pizza, 1242 Coventry Road, South Yardley, Birmingham B25 8BJ, 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 public nuisance.

The Sub-Committee's reasons for refusing this application for a premises licence are due to concerns raised by Environmental Health regarding the impact of the proposed operation in a largely residential area – namely the high potential for public nuisance from takeaway premises that wished to trade throughout the night and until 04.00 hours daily (05.00 hours at weekends).

The Sub Committee carefully considered the operating schedule put forward by the applicant, but were not persuaded that that either the applicant, or the proposed operation of the premises, were capable of upholding the licensing objectives. The applicant confirmed that the reason that he wanted the late night refreshment permission was commercial – in order, he said, to “increase footfall”. Extending the hours would keep the business afloat. He stated that he would take a responsible attitude.

The Sub-Committee then heard from the Environmental Protection Officer from the City Council’s Environmental Health department. He confirmed that the area was predominantly residential, and that antisocial behaviour was known to be problem, particularly in and around the nearby Flora Road area.

The terminal hour was the overwhelming concern of the Environmental Protection Officer. Other takeaways in the area closed at 12 midnight; the only late night premises nearby was a restaurant, and even that closed at 01.30 hours. No other food establishment was open all night, in the manner proposed by the applicant.

The Environmental Protection Officer confirmed that the public nuisance issue would principally be noise, but also that odour from cooking was likely to cause problems. It was a residential area; residential flats were situated directly above the pizza shop. There

would be noise and odour from trading, the noise of the extractor fan, and of course the likelihood of disturbance from customers hanging around outside - all potentially until 04.00 or 05.00 hours daily. This was a significant risk in terms of public nuisance.

The Sub-Committee, with the assistance of the Environmental Protection Officer, gave consideration to whether any measures could be taken to ensure that the licensing objective regarding public nuisance was adequately promoted and that therefore the licence might be granted; however Members considered that modifying the conditions of the licence would not mitigate the concerns raised by those making representations. The Environmental Protection Officer confirmed that the additional conditions he had suggested were only ever put forward in case the Sub-Committee did decide to grant, and that the reason he had suggested them was due to the fact that the applicant's operating schedule offered nothing to mitigate against the risk of public nuisance. The Environmental Protection Officer confirmed that his recommendation remained that the Sub-Committee should refuse on the grounds of prevention of public nuisance.

The Sub-Committee bore in mind the s182 Guidance that commercial viability is irrelevant. The sole matter at hand was whether the applicant was capable of operating safely during the very late hours he had requested. Yet all of his submissions related to his finances and how late hours were essential for the survival of the business, rather than how he would uphold the licensing objectives. The submissions he did make relating to the licensing objectives were mainly about crime and disorder – but the concern was the risk of public nuisance, in a residential area, throughout the night and until 05.00 hours. The Environmental Protection Officer confirmed that there was nothing in the operating schedule that satisfactorily addressed the potential for public nuisance. This did not inspire confidence in the applicant as a potential late night operator and accordingly the application was refused.

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, by his 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.

LICENSING ACT 2003 PREMISES LICENCE (VARIATION) - CHURCH HILL GARAGE, CHURCH HILL, NORTHFIELD, BIRMINGHAM, B31 3UB

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

Richard Baker – Agent
Professor Roy Light – Barrister

Those making representations

PC Abdool Rohomon – West Midlands Police

* * *

Following introductions by the Chairman, David Kennedy, Licensing Section, made introductory comments relating to the report.

Professor Roy Light, on behalf of the applicant made the following points:-

- a) That the premises operated as a petrol station for ages, then closed. It reopened 3 years ago they submitted an application for a 24 hour licence. Residents were concerned back then, two councilors and the police objected.
- b) The application was granted and condition attached that late night sales would be through a night hatch.
- c) That they had two other premises, one on Pershore road and one in Maypole. Both of which had changed to operate the same way as the variation on this premises.
- d) That it was a simple application. He referred Members to page 35 of the evidence bundle for them to see the previous conditions.
- e) The application was seeking to change the conditions so that two people did not need to be on duty to have the doors open.
- f) They would have doors operated by a button which would allow people in.
- g) They were not asking for the doors to be open all the time. The cashier would be able to exercise discretion.

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- h) That at the last hearing, fears were raised about noise levels and about a 24 hour licence attracting the wrong kind of people. However, there were no residential complaints.
- i) That if residents had concerns, they would have objected.
- j) That the premises had not caused any issues or problems. The other premises had their conditions changed a year ago and no issues had arisen at those premises either.
- k) The other premises had no objections either.
- l) That the objection from West Midlands Police in relation to crime and disorder had no evidence to support it; no criminal statistics, no reports, nothing to support the claims they made.
- m) At the last hearing West Midlands Police said there was low level ASB in the area and they were concerned that 24 hour opening would add to it. However, there is no evidence that happened and the fears have not materialised.
- n) They were also concerned that it may attract youths and opportunists, but none of that happened either. They were guessing what may happen without any evidence again.
- o) That if there was a risk, one would expect issues to have arisen.
- p) That really the only thing the Committee had to consider today was how the condition should operate. So they could have the door open and then if they see customer approaching who they don't want to let in, they could press the button to lock the doors, alternatively they could have the doors locked until they allow a customer in.
- q) They had CCTV covering all angles, with number plate recognition and a zoom option.
- r) They had training manuals on Conflict management.

Mr Baker added:-

- a) The Conflict manual dealt with conflict management in quite some detail. It had 2 different methods; it helped staff identify what to say in different situations and the purpose of what they say and the objective. But it was also about how they communicated things; so covering different stances, how to hold themselves, and movement and so on. This was in order to make sure the purchaser knew who was in control. If staff came across as aggressive or passive it could make situations worse.

In response to Members questions, Professor Roy Light made the following points:-

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- a) The manual had been in place since the premises opened.
- b) Staff were aware that if they got it wrong they could get a penalty and may lose their job. All staff had to pass the training.
- c) They had an incident book but had no issues.
- d) There were risks all day long regarding who entered the premises and unless there was evidence to suggest an increased risk was likely then really there was no evidence at all.
- e) There was no evidence of any problem with the premises.

Mr Baker added:-

- a) That he checked with the police before the application was submitted to check if there had been any issues, and there wasn't any.
- b) That it was a shock when the police said they were objecting.
- c) The other premises had no issues operating in the same way the application was proposing.
- d) That all the cameras were being upgraded.
- e) The garage was manned from the counter.
- f) That he had been looking after this company for a long time and was confident that it would run appropriately.
- g) That all the stores opened single handed, with open door policies, 24 hours a day.
- h) They had a panic button
- i) Staff were very experienced.

At 1215 the meeting was adjourned to allow the Chair to seek legal advice. All parties with the exception of the Members, Committee Lawyer and Committee manager withdrew from the meeting.

At 1218 the meeting was reconvened and all parties were invited to re-join the meeting.

At this juncture, PC Rohomon, on behalf of West Midlands Police made the following points:-

- a) That he wished to ask some questions, through the chair
 1. Was there a camera inside the premises?
 2. How long did the door system stay open once the button was pressed, was it sensor controlled?

Mr Baker responded:

1. That there were multiple cameras inside the premises.
2. That the button would open the door, and then it would be pressed again in order to close. Some can be slider doors, others are a normal door.

Cllr Dring advised that she knew the types of doors they were referring to as they had them in hospitals and was concerned regarding the safety of the public.

Mr Baker advised that they were not the same as hospital doors, these were commercial doors and operated by a button which only the staff had access to. The cashier would have to press it to unlock it, and press it again to shut and lock the door. He did not believe it was beyond operation to get a self-locking door.

Professor Roy Light requested an adjournment to allow them to call the applicant to find out the exact mechanics of the door.

The Chairman advised that PC Abdool Rohomon would need to finish his points prior to any adjournment and declined the request at this stage.

PC Rohomon continued:-

- a) That recently in mail articles Northfield was associated with gang related violence, which was why they were not content with the variation application.
- b) That West Midlands Police did not need to provide evidence, it was not their application. The premises should be showing evidence in order for them to establish that the condition could work.
- c) That the condition already attached to the licence was not unusual. They required two members of staff on night duty in order to have the doors open for greater control and safety within the premises.
- d) The hours during the night were difficult times.
- e) If the premises did not wish to put two members of staff on, then they must use the night hatch.
- f) The premises wanted to use one member of staff and have the ability to open the door. That's changing a condition which already works.
- g) That one person would have to manage the fuel pumps, the cameras, watch the shop, and open the door; that's a lot of responsibility for one member of staff.
- h) They shouldn't be locking people in the premises, otherwise people are stuck inside.
- i) What was there to stop a person holding the door open for others to gain

entry, or putting a foot in the door to stop the automatic closure of the door?

- j) That it was the cashiers own discretion to allow people into the shop.
- k) A lone worker sat behind the till was very, very vulnerable.
- l) He could not understand the variation to the condition.
- m) The condition already allowed them to operate in a safe way with two members of staff.
- n) They chose not to employ two members of staff, that's their choice to only have one member of staff on during the greater risk hours.
- o) The current condition was a safety option; it was there to protect staff.

Professor Roy Light raised a concern that Cllr Dring was referring to the doors being "the same as hospital doors" after they had already advised her they were not the same. He was concerned the Chairman was relating to hospitals when they themselves had been told by the Chairman about not referring to the two other premises which were not matters to be dealt with at today's hearing.

The Chairman advised that she was only using it as a scenario, and not directly relating to hospitals.

PC Rohomon continued:-

- a) That he did not want the condition changed so why would he provide any evidence; it was up to the premises to provide evidence.
- b) That he could not agree with the variation.
- c) The area was well documented as being troubled.
- d) He had reservations regarding the door system, but they didn't have any further information on that.
- e) West Midlands Police could not support the variation.
- f) He had spoken to the applicant outside and PC Walker spoke with Mr Baker, PC Walker was unaware of the concerns PC Rohomon had.
- g) The condition was working well, why would they change it.
- h) The other condition would not offer the same level of control.
- i) That the area had a variety of problems; including gangs.
- j) That he understood the door system would be operated by the cashier pressing the button to unlock and open the door, and then it would close

after them. However, to lock the door the cashier would have to press the button.

- k) Locking someone in the premises had its own risks. They should not be locking people inside the premises.
- l) That Northfield had a greater degree of risk, without a doubt.

Professor Roy Light advised PC Rohomon that there were 6 cameras all shown on the plans they had submitted, and wanted to clarify that PC Rohomon knew nothing about the premises. Furthermore, that at the previous application, West Midlands Police said there was low level ASB in the area and the premises would add to this back in 2015, yet that didn't happen.

PC Rohomon added that he was not bringing any issues with the premises to the council.

Cllr Dring asked questions in relation to the map of the premises and questions relating to the hatch.

Professor Roy Light responded explaining that they weren't talking about huge numbers of people entering and exiting the premises.

In summing up, PC Rohomon, on behalf of West Midlands Police, made the following points:-

- That the current condition offered the control and support necessary for promoting the licensing objectives.
- That there was no evidence of how the variation would promote the licensing objectives.
- That the individual working alone would be vulnerable.
- WMP believed the variation should not be granted and they were not supporting it.

Professor Roy Light requested the adjournment again; however, Mr Baker had already left the room without prior approval from the Chairman. He was ringing the applicant to find out the mechanisms for the doors.

At 1302 the meeting was adjourned to allow the agent to contact the applicant. All parties with the exception of the Members, Committee Lawyer and Committee Manager withdrew from the meeting.

At 1308 the meeting was reconvened and all parties were invited to re-join the meeting.

Professor Roy Light confirmed the mechanics of the door:-

- a) That it was a pivot door, not a sliding door.
- b) The cashier would press the button and it would open, the degree of opening would control the time it was open for and that could be adjusted.
- c) The door would close automatically and lock itself. The cashier would not have to press the button for it to lock.
- d) That should a foot be in the way, the safety features in the door would keep it open, a door would not crush someone.
- e) That in order to accommodate people who were slower at entering, the door would be operated on a button press closure, to ensure that patrons could enter without the door shutting too quickly.

PC Rohomon advised that it did not change West Midlands Police's submission.

In Summing up Professor Roy Light, on behalf of the applicant, made the following points:-

- That it was economics of the business that meant they didn't employ two people to work at night. There was no need to have two people as so little people were entering through the night.
- That the new condition would allow people to look around, it was not the same as operating with a hatch door.
- That it was all part of a shop business.
- That they were asking for the cashier to be able to use discretion in allowing people to enter.
- That it was about balance, everything had risks.
- That the police said it was not for them to produce evidence. However, they were not saying the condition didn't work, they were simply asking for it to be changed.
- The police were saying "no" because it would cause more trouble, but they needed to support those claims with evidence.
- That it was concerning that the police had never been to the premises, didn't know how many CCTV cameras there were and had no overall knowledge of the premises, yet were saying it was not a good idea.
- They had 6 CCTV cameras, a panic button, and the door could be designed in a way to suit.
- That as an employer they had a responsibility to carry out risk assessments.

- They would ask the Committee to modify the condition and give discretion to the cashier.
- That all the concerns raised last time never happened, and the issues raised this time, were all just possibilities.

At 1317, the meeting was adjourned. All parties with the exception of Members, the Committee Lawyer and Committee Manager left the meeting.

At 1353 hours the Chairman requested all present, with the exception of Members, the Committee Lawyer and the Committee Manager to withdraw from the meeting.

5/031218 **RESOLVED:-**

That the application by Global Fuel UK Limited to vary the premises licence in respect of CHURCH HILL GARAGE, CHURCH HILL, NORTHFIELD, BIRMINGHAM B31 3UB, 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 prevention of crime and disorder licensing objective would be promoted if the condition were to be varied.

The Sub-Committee determined that the variation sought is substantial. Consequently, significant weight was attached to the concerns of West Midlands Police. The existing condition requires that night time sales be conducted via a hatch window; only if two or more staff are on duty are customers permitted to enter the shop. This condition had been imposed by the Sub-Committee in 2015, in order that the premises should have sufficient control to be capable of upholding the licensing objectives at an all-night garage.

The Sub-Committee heard from the applicant (via his legal representative and also his agent) first. The legal representative & agent stated that it was not convenient to expect customers to select their shopping through a serving hatch; they had therefore varied the other premises licences which the applicant held for garages in Birmingham, at Pershore Road and at Maypole, in the same fashion, and the new arrangements were working well there.

They observed that although the Pershore Road area had been described by Police as generally a safe area, the Maypole garage was situated in a similar area to that of the instant premises, yet the Maypole garage had not experienced any risks to the crime and disorder objective whilst operating with a lone worker operating a shop access system at night.

They felt that the police had not adduced any evidence of the risks relating to crime and disorder, such as statistics. They reminded the Sub-Committee that at the meeting in 2015, the police had warned the Sub-Committee of the likelihood of

“low-level anti social behaviour”, yet that potential problem had not in fact materialised.

Their view was that the lone worker would open the door only to admit suitable people; it would not be the case that the shop would be open to allcomers. They stated that in the three years since 2015 they had been trading without complaint. The company’s usual practice elsewhere in Birmingham was to have one member of staff on duty, operating an access system, and there had been no report of trouble arising from the use of that arrangement. They took the lack of any representation from local residents in the instant matter to mean that local people were unconcerned about the risk to the crime & disorder objective.

They stated that the operating schedule had been drafted with potential problems in mind, and that the Training Manual included a section specifically dealing with conflict management for lone workers. The applicant’s agent addressed the Sub-Committee at length on the conflict management issue. The agent stated that staff were under orders not to let just any customer into the shop; he observed that the sanction of a “£90 penalty” for staff should they admit an unsuitable person was an effective deterrent. He added that in any event the staff were experienced and not easily fooled. He described the operation of the door, and how it would be locked and unlocked. He also confirmed that the CCTV system was currently being upgraded, that there were numerous CCTV cameras, and that there was a panic button in the shop.

The Sub-Committee then heard the submissions of West Midlands Police, who observed that gang-related violence was a feature of the Northfield area. The garage was situated by Northfield Station. The whole reason for the requirement for two staff to be on duty before customers could enter the shop at night was that it gave control and a greater degree of confidence/ support for the staff. The use of single manning was inadvisable from a crime & disorder perspective because it gave that member of staff too much to do – namely simultaneously watching the pumps, opening the door to admit customers, ensuring that only the permitted customer entered, serving the customer with others selecting their shopping in the shop, releasing the door to let the customer out, ensuring that nobody else took the opportunity to enter as that customer left, and locking the door after they left. This was too much responsibility for a lone member of staff, and there was therefore a risk that the crime & disorder objective would be at risk.

The Sub-Committee accepted the recommendation of the Police that the licensing objectives would only be upheld by retaining the condition in its current form. They accepted the Police submission that the lack of representations from local residents meant that the current condition was working properly to control the risk of crime & disorder. Whilst it was true that there was permission for customers to enter the shop late at night, it was in a safe and controlled way – namely, only when two or more staff were on duty. The applicant’s business decision to only have a lone worker manning the shop at night carried a significant risk in Northfield; the Sub-Committee agreed with the police recommendation that “young miscreants” should be the focus when considering operation at late hours of the night, and it was therefore sensible to maintain the condition requiring two staff to be on duty before customers were allowed to enter the shop.

It was the recommendation of the police that the application be refused, on the basis that it did not give the premises sufficient control to manage the potential for trouble late at night. The Sub-Committee asked questions relating to the issues of control and risk, but the legal representative and agent stated that admission to the shop would be at the discretion of the staff, which obviously was unsatisfactory. The fact that Northfield had experienced gang-related violence was of great concern to the Sub-Committee. There were inherent risks in a door that was unlocked by a lone worker - for example if a customer were to put his foot in the door, or even inadvertently admit others, the lone worker would then have to leave the till to deal with the problem, possibly with other customers in the shop. This was too much responsibility to place on one person; that person would consequently be at risk of being unable to ensure safe operation late at night.

The Sub-Committee accepted that to grant the variation application would remove the safety element that is a condition of the licence, and would mean that there was no support for the member of staff working by themselves. The Sub-Committee also accepted that the lack of crime incidents meant that the condition imposed in 2015 had worked.

When deliberating, the Sub-Committee bore in mind the risk of vulnerability of both the premises and its staff. The use of the night hatch protected the staff and was an effective deterrent against those looking to create trouble. Equally, the requirement for at least two staff in order to open the shop at night gave reassurance to the police, and also the Sub-Committee, that risks could be safely managed. The existing condition offered support to lone workers late at night, and promoted the licensing objectives. All in all, the requirement for two people was safer and better; for that reason, 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, the written and oral representations made at the hearing by the applicant via their legal adviser and their agent, and by the Responsible Authority (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.

OTHER URGENT BUSINESS

6/031218

There was no urgent business.
