



BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE

WEDNESDAY 03 FEBRUARY 2021

APPLEBERRY FOODS, UNIT 2210, ACCESS SELF STORAGE, 180 SHERLOCK STREET, BIRMINGHAM B5 7EH

That the application by Mr Bhavinkumar Inamdar for a premises licence in respect of Appleberry Foods, Unit 2210, Access Self Storage, 180 Sherlock Street, Birmingham B5 7EH, **BE REFUSED**.

In reaching this decision, the Sub-Committee was mindful of the promotion of the licensing objectives in the Act - the prevention of crime and disorder, public safety, the prevention of public nuisance 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 regarding the proposed manner of operation. Whilst some conditions had been agreed in advance between the applicant and Licensing Enforcement, the Police had maintained their objection.

The Police objections were outlined in full in the Report; in addition, the Police attended the meeting to address the Sub-Committee directly. Whilst alcohol delivery services had become a widespread feature of numerous alcohol-licensed premises during the ongoing Covid-19 pandemic, and in general had not proven to be troublesome, the Police had concerns regarding the applicant supplying alcohol very late at night; any proposal to do this required robust policies and procedures to be in place, along with stringent control measures. Having discussed this issue with the applicant's agent by email in advance of the meeting, the Police were not at all satisfied that this was the case.

The lack of comprehensive policy documents was a concern shared by the Sub-Committee, who agreed with the Police that it was to be expected that the applicant should have comprehensive policies in place - so that the responsible authorities would be able to assess that all the risks had been identified, and all staff would be aware of the need to follow them. The omission of comprehensive policy documents did not reassure Members that the style of operation would be capable of upholding the licensing objectives.

The Sub Committee carefully considered the operating schedule, and the 'Appleberry Foods Policy on Responsible Retailing of Alcohol' document (one and a half pages) put forward by the applicant, and the likely impact of the application, but were not persuaded that that the proposed operation of the premises would uphold the licensing objectives. The applicant's agent addressed the Sub-Committee. The company was a small business which wished to expand into Birmingham as it had been operating online sales of food and drink elsewhere for some 17 years. It was therefore surprising that comprehensive policy documents from its operations elsewhere were not available to be put before the Sub-Committee.

Moreover, the Police drew the attention of the Sub-Committee to paragraphs 8.41, 8.42 and 8.47 of the Guidance issued by the Home Office under s182 of the Licensing Act 2003, and queried whether the applicant had the level of local knowledge to promote the licensing objectives in Birmingham.

The operating hours were to be 24 hours a day, which was an inherent risk. The information under 'general description of the premises' on the application form was also a worry to the Police – the secure storage area was controlled by a PIN code, but there was no confirmation of who would have access to the PIN code, or how often it would be changed; similarly the CCTV system was not Appleberry Foods' own system, but one for the 'Access Self Storage' premises generally.

Whilst the applicant's agent stated that the style of alcohol would be wine and some spirits but certainly not cheap high-strength alcohol, the Police observed that the grant of the licence would of course permit the sale of all types of alcohol. The Police observed that the proposed operation was inherently risky and there was a distinct lack of detail – for example, it was unclear whether the conditions which had been agreed with Licensing Enforcement would also cover the applicant's third-party partners. All in all, it was difficult to feel confident that the operation would be capable of upholding the licensing objectives.

The Sub-Committee gave consideration to whether any measures could be taken to ensure that the four licensing objectives would be 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 Sub-Committee heard submissions from the applicant's agent that they could and should be trusted, and ought to be given a chance to operate in Birmingham; however, as the Police observed, the Sub-Committee could only feel confident in doing that where satisfactory policies and procedures were in place. That was emphatically not the case here; accordingly the Sub-Committee resolved to refuse the 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 via his agent, and 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.