

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C 13 JULY 2022

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 13 JULY 2022 AT 1200 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)

5/130722 **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) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

6/130722 **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.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

7/130722 Apologies were submitted on behalf of Councillors Kooner and Wagg and Councillors Davis and Pritchard were the nominated substitute Members respectively.

**LICENSING ACT 2003 PREMISES LICENCE – GRANT LEA HALL LOCAL, 149
LEA HALL ROAD, GARRETT'S GREEN, BIRMINGHAM, B33 8JS.**

On Behalf of the Applicant

Pakeerathan Sivassubramaniam - Applicant
Suresh Kanapathi – Agent, Arka Licensing.

Those Making Representations

Leckbir Singh Garcha – Local Business Owner

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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 Suresh Kanapathi made the following statements: -

- a) The family had taken over the business and were living upstairs in the flat.
- b) The applicant knew the area well and had already been running the premises for a few months.
- c) He had applied for a licence to sell alcohol from 6am-midnight.
- d) There was no reason they couldn't have a licence for those hours, however West Midlands Police raised concerns, so they amended the terminal hour to 11pm.
- e) The applicant had 15-20 years experience managing licensed premises.
- f) There was no evidence to suggest there is any anti-social behaviour in the area.
- g) The shop had been in existence for a long time.
- h) When the applicant took over the premises it was messy, but he had cleaned it up.
- i) There were three objections but the one from Mr Garcha was in relation to the midnight terminal hour which had been amended to 11pm. The other

concerns were around ASB. However, the applicant lived above the shop and wouldn't want ASB in the area. He would do everything to prevent ASB from occurring in the area. Furthermore, there was no actual evidence to support any claims of ASB in the local area.

- j) The objections were in relation to a 24 hour licence, but the application wasn't for that.
- k) The petition was created by the shop next door, he asked the Members to consider the appropriate weight to attach to it.
- l) It wasn't clear who had signed it, whether they were local residents or not.
- m) The applicant was an experience shop operator.
- n) The next door neighbour was concerned about his shop and the impact a new licensed premises would have.
- o) He invited the Committee to look at the application positively.

The Chair invited questions from Members and Suresh Kanapathi and the applicant gave the following responses: -

- a) That the applicant had been running the premises for 1.5 months. Someone else ran the shop previously.
- b) The premises was situated in a small parade of shops in a residential area.

The Chair then invited Mr Garcha to make his case and he made the following statements: -

- a) That he had been at his premises for 30 years and he was not concerned about competition. He had been running his premises for so long supporting the local community that competition wasn't a concern.
- b) His premises operated as an off licence.
- c) He was concerned that serving people alcohol at 7am was the wrong thing to do. There were vulnerable people and children going to school in the morning.
- d) He had no objection to them having a licence, but 7am was too early.
- e) All the signatures for the petition in the shop were from local people. The online one anyone could have signed.
- f) There wasn't a need for alcohol at 7am.
- g) A 7am licence was going to attract vulnerable people: drunks, gambling addicts and drug addicts.

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- h) Having two shops selling alcohol should give customers what they wanted, but not in the early hours of the morning.
- i) They should provide food and produce first and then alcohol.
- j) They were trying to get rid of single cans and high strength beers were expensive in his premises.
- k) His front room was supposed to be made into a bedroom for his sick mother, but due to the premises opening and the concern of people buying alcohol early they haven't been able to do it.
- l) Vulnerable people needed help from the local community and this wouldn't help.
- m) He lived in the area and didn't think it was responsible to serve alcohol that early.
- n) There had been incidents at the premises of minors buying age restricted products such as a vape and a scratch card.
- o) The licence was the wrong thing for the community. Restrict the licence from 10am-11pm.

In answer to Members questions Mr Garcha gave the following responses: -

- a) They had a licence from 8am-11pm but they only operated 11am-1030pm.
- b) Competition was not a concern as they had been operating for a long time and had won over the local community.
- c) There was more profit in groceries than in alcohol so it was 'win, win' for them.
- d) Competition didn't come into it.
- e) Early hours of the morning parents were taking children to school and vulnerable people would be trying to get alcohol.
- f) There was primary school two roads away.
- g) It was a residential area.
- h) There was a McDonalds nearby which had a 24 hour licence.

The Chair then invited both parties to make a brief closing submission, however Mr Garcha had nothing further to add.

Therefore the Chair invited Suresh Kanapathi to sum up his submissions and he made the following points: -

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- That Mr Garcha talked about doing lots for the community but he wasn't sure what he was talking about.
- They wanted to supply all available products for the time the premises was open, there was no reason they couldn't do it.
- There was no representations from any responsible authorities.
- Mr Garcha admitted to having a licence from 8am-11pm, therefore why couldn't they have a licence from 7am.
- WMP had agreed with the opening hours.
- They amended the closing time at the request of WMP to 11pm, which showed they were being proactive.
- It was a local shop and they wanted to provide all products to customers.

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;

8/130722

RESOLVED:-

That the application by Mr Pakeerathan Sivasubramaniam for a premises licence in respect of Lea Hall Local, 149 Lea Hall Road, Garretts Green, Birmingham B33 8JS, be granted with the hours for the carrying on of licensable activities to be those agreed by the applicant with West Midlands Police in advance of the meeting, namely:

Monday to Saturday: 07.00 - 23.00
Sunday: 08.00 - 23.00

The Sub-Committee adopted these hours for licensable activities in order to ensure the promotion of the licensing objectives. Those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will also form part of the licence issued.

The agent for the applicant addressed the meeting. The premises had been operating as a convenience store under a previous operator; the applicant had recently taken it over. He was a person experienced in working in licensed premises, as he had done so for the past fifteen to twenty years; accordingly he was well-versed in upholding the licensing objectives. His original intention had been to trade across 24 hours. However, after discussing the application with the Police, he had agreed to significantly reduce the hours for the sale of alcohol.

The agent observed that the applicant had put forward an operating schedule which addressed the promotion of the licensing objectives. There had been no objection from any of the other responsible authorities.

The Sub-Committee noted that under paragraph 9.43 – 9.44 of the Guidance issued under s182 of the Act, there was a presumption to grant such applications unless there was good evidence of a risk of an undermining of the licensing objectives. The Sub-Committee therefore looked carefully at whether there was evidence that the proposed operation would in fact undermine the licensing objectives.

Written representations had been received; one of them discussed the risks in relation to 24-hour trading, which was no longer the scope of the application due to the agreement with the Police relating to the hours. The Sub-Committee carefully considered that written representation. The other was from a neighbouring business, and also attached a petition signed by members of the public. The neighbouring businessman who had submitted the representation attended the meeting in person to address the Sub-Committee.

Members carefully considered the representations made in the meeting by the other businessman, and the petition which he had submitted, but did not find that there was an overwhelming evidential and causal link between the issues raised and the effect on the licensing objectives.

It appeared that the neighbouring businessman was a premises licence holder himself, two doors down in the same road, and the hours of his own licence were similar to those which the applicant had agreed with the Police. The businessman considered that to open early in the morning was “the wrong thing to do”. He observed that he had made the decision not to use the full extent of his own permitted hours, and was concerned about the impact that any permitted hours which exceeded his own could have on the vulnerable; however, the Members agreed with the remarks of the agent – that a carefully-run operation, by an experienced person with a responsible attitude to trading, would be sufficient to ensure the upholding of the licensing objectives.

The Sub-Committee considered that the applicant had drafted a satisfactory operating schedule, and therefore concluded that by granting this application the four licensing objectives contained in the Act would be properly promoted. The Sub-Committee was satisfied that trading would be safe, and noted that the applicant was an experienced person.

The Sub-Committee considered that it was speculative to assume that trouble would automatically arise from sales of alcohol in the morning. Both of the persons making representations had argued that this would be inevitable, but the Sub-Committee did not agree that this was the case for an experienced operator. Certainly, West Midlands Police had found the application (with reduced hours) to be entirely satisfactory. There were therefore no evidence-based reasons to deviate from the presumption to grant recommended in the Guidance issued under s182 of the Act.

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 application for a premises licence, the written representations received and the submissions

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made at the hearing by the applicant via his agent, and the person 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.

The meeting ended at 1250

Chairman.....