

BIRMINGHAM CITY COUNCIL

LICENSING
SUB-COMMITTEE B
4 MAY 2021

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY 4 MAY 2021 AT 1200 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Nagina Kauser in the Chair;

Councillors Mary Locke and Adam Higgs.

ALSO PRESENT

David Kennedy – 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)

NOTICE OF RECORDING/WEBCAST

1/040521 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.

2/040521 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.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/040521 Apologies were submitted on behalf of Councillor Nicky Brennan and Councillor Mary Locke was the nominated substitute Member.

LICENSING ACT 2003 PREMISES LICENCE – GRANT – THORNBRIDGE AVENUE POST OFFICE, 87-89 THORNSBRIDGE AVENUE, GREAT BARR, BIRMINGHAM, B42 2AB.

Report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See document No. 1)

On Behalf of the Applicant

Mohammed Kauser and Panvir Karam – Applicants
Carl Moore – Agent
Freddie Humphreys - Barrister

Those Making Representations

Darius Sandhu – resident

* * *

The Chairman introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider. The Chair also advised that whilst she had the same surname as one of the applicants they were not related.

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

The Chair invited the applicant or their representative to make their submissions, at which stage Freddie Humphreys made the following points: -

- a) The applicant has run the Post Office for 22 years and wanted to diversify the business. There was a customer demand for a 'one stop shop'.
- b) 22 years was a significant time to run a shop in one location. They had regular customers.
- c) The nearby pub was licensed until 12am apart from Sundays.
- d) There were other licensed premises nearby which were indicated on the plan.
- e) They contributed to the High Street; it was a nice area.
- f) There were no particular problems in the neighbourhood.
- g) The operating schedule set out the conditions and they were exactly the type of conditions expected of a licensed premises.
- h) Some conditions had been tweaked taking on board comments from West Midlands Police (WMP) and the Licensing Authority.

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- i) The conditions suggested by WMP focussed primarily on CCTV, although CCTV was in place but potentially needed upgrading.
- j) That the conditions were appropriate.
- k) The application was driven by a local demand. The people primarily served by the store did not make representations.
- l) That the representations were concerned about children, street drinkers, and litter. However, children were entitled to use shops such as this one and they had measures in place to deal with the issue of underage sales. They operated a strict Challenge 25 policy.
- m) There were already shops selling alcohol in the area, therefore, why would this particular shop blight the area with rubbish and street drinkers. There was no evidence at all to support those representations.
- n) There was also no evidence to suggest that management wouldn't be able to operate the store successfully in this location.
- o) The representation at appendix one makes reference to an alcohol fuelled hit and run, however the shop doesn't sell alcohol and therefore that is not a relevant representation.
- p) That unless there was a cause or explanation as to a particular problem, or why the conditions wouldn't overcome issues then there was no reason to refuse the application.

In answer to Members questions the applicant and his representative gave the following responses: -

- a) That the highest strength alcohol on sale would be Vodka as well as other spirits of a similar nature.
- b) The beers and lagers on sale would all be priced at the market rate.
- c) That the hours applied were similar to the nearby off licence.
- d) That staff training would be provided.
- e) There were other licensed premises in the area.
- f) That there was a convenience store and chip shop on either side of the premises.
- g) That the applicant didn't have any previous experience running a licensed premises.
- h) There had been no phone calls to the police.

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- i) That it was a point of principle that Members shouldn't impose conditions unless necessary; unless there was evidence to suggest it was necessary. There were no issues with street drinkers so why should a condition relating to high strength alcohol be imposed.

The applicant, Mohammed Kauser told the Committee how he had been at the shop since 197 serving the local community. He had 3 employees and wanted to diversity otherwise the Post Office simply wouldn't survive.

The Chairman invited those making representations to present their case, as such Mr Darius Sandhu made the following comments: -

- a) That he made representation under the prevention of crime and disorder, public safety, prevention of public drinking and the protection of children from harm objectives.
- b) School children had to walk through the area to get to school and the 28 bus route also went through the area.
- c) There were often street drinkers when children were going to and from school.
- d) Those drinkers left glass bottles, litter and other rubbish which posed a risk to children, the general public and pets.
- e) Street drinkers were also at risk of getting hit by cars.
- f) There were already places selling alcohol; a convenience store and local pub. They didn't need another premise selling alcohol.
- g) He had put conditions forward.
- h) There was nothing against the business, there was already enough alcohol in the area.
- i) The petition had a high number of signatures.
- j) That he didn't actually live in the local area.
- k) That although the shop didn't sell alcohol currently, it was about adding more to the area. They didn't want another option in the area.
- l) That they wanted the hours reduced.

The Chairman invited Mr Sandhu to make a closing submission, however he chose not to make one.

Therefore the Chairman invited the applicant and their representative to make their closing submission at which stage Mr Freddie Humphreys made the following points: -

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- a) That the objector referred to 'us', 'they' and 'we' but it was not clear who he was talking about. He was also not from the local area.
- b) The concerns about adding to the problems were based on no evidence at all.
- c) It was a shop that already existed and there was no evidence that it would add to issues.
- d) There was no reason to restrict the alcohol sales and in the absence of any evidence they Committee should not add on additional conditions.

At this stage the meeting was adjourned in order for the Sub-Committee to make a decision and all parties left the meeting.

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

4/040521

RESOLVED:-

That the application by Mohammed Kauser and Panvir Karam for a premises licence in respect of Thornbridge Avenue Post Office, 87 - 89 Thornbridge Avenue, Great Barr, Birmingham B42 2AB, **BE GRANTED.**

Those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued, together with the conditions agreed with West Midlands Police in advance of the meeting, namely:

- Regarding CCTV, in the event that the hard disk storage device is replaced, the old hard disk drive will be kept for 28 days on site
- A competent member of staff trained in using the CCTV will always be available at the premises
- Licensing training will be refreshed every 6 months for non-personal licence holders, and every 12 months for personal licence holders

The Sub-Committee also determined that the following additional conditions, as agreed with Licensing Enforcement in advance of the meeting, should be added:

- All staff who are not personal licence holders, working at the premises and involved in the sale of age restricted products including alcohol, will receive ongoing training, and this will be refreshed every 6 months. Training must include Challenge 25 policy, the conditions attached to the premises licence and the four licensing objectives. This will be recorded in a staff training register that must be signed by both the person providing the training and the trainee. The training records must be made available to authorised officers of responsible authorities immediately upon request. Records shall be kept at the premises
- Prominent, clear and legible signage displayed both inside & outside the premises stating the following:

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- a) Requesting patrons to be considerate of local residents when leaving the premises
- b) Advising patrons to refrain from drinking alcohol in public areas.
- c) Advising patrons to dispose of any litter in litter bins provided
 - All refusals will be recorded in a refusals log. The refusals log must be available for inspection by any of the regulatory authorities immediately upon request. If the refusals log is manually recorded it must be signed by the DPS fortnightly
 - The premises will operate a “Challenge 25” policy. Notices will be prominently displayed at the point of sale and throughout the premises. People who appear to be under the age of 25 (or older if the licence holder so elects) will be asked for photographic ID

The applicants had been successfully operating as a Post Office branch for 22 years and had no record of problems. They now wished to offer an additional service of alcohol sales, due to customer demand and the need to keep the business viable.

The Sub-Committee deliberated the operating schedule put forward by the applicants, and the likely impact of the application (particularly in the light of the conditions which were agreed in advance of the meeting) and concluded that by granting this application, the four licensing objectives contained in the Act will be properly promoted. The Sub-Committee was reassured by the agreements regarding CCTV and staff training.

Members carefully considered the written representations made by other persons. One of these persons also attended the meeting and addressed the Sub-Committee directly. However, Members were not convinced that there was an evidential and causal link between the issues raised and the effect on the licensing objectives.

Those making representations stated that to grant the application would have a negative impact on the licensing objectives, due to a possibility of an increase in crime, antisocial behaviour, street drinking and litter. However, the applicants had made proper efforts to mitigate against any potential for trouble. The Sub-Committee heard from the person who attended the meeting to address the Members. However, this person’s submissions were focused on the undesirability of alcohol sales in general terms. As the applicants’ counsel observed, there was no evidence to justify a belief that the licensing objectives would be undermined by the style of operation proposed for Thornbridge Avenue Post Office. The applicants’ counsel also observed that the person who addressed the Sub-Committee was not an elected representative; nor did he live in the area.

The Sub-Committee recognised that it was important to balance the legitimate business interests of the applicants with the interests of those objecting, and

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the submissions made by the applicants' representative had made clear that there was no reason to think that either the operation, or the licence holder, would not be capable of upholding the licensing objectives.

Moreover, the Sub-Committee noted that West Midlands Police and Licensing Enforcement had found the application to be satisfactory, and no representations had been made by any of the other responsible authorities. The concerns of those making representations were taken into account by imposing the agreed conditions, which would allay their apprehensions about the potential for trouble arising in connection with the proposed operation of the premises. The Sub-Committee considers the conditions imposed to be reasonable and proportionate to address the concerns raised.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under 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 made at the hearing by the applicants, their counsel, 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.