



BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE B

TUESDAY 30 JUNE 2020

Anna Off Licence, 38 Bridge Road, Saltley, Birmingham, B8 1TD

That the application by Krishnapillai Peraparan for a premises licence in respect of Anna Off Licence, 38 Bridge Road, Saltley, Birmingham B8 1TD, be refused.

In reaching this decision, the Sub-Committee was mindful of the promotion of the Licensing Objectives in the Act, namely the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm.

The Sub-Committee was aware that discussions had taken place in advance of the meeting, between the applicant and West Midlands Police, regarding a reduction of hours for the sale of alcohol. The Police therefore did not submit an objection.

However the Sub-Committee's reasons for refusing this application for a premises licence were due to concerns expressed by other persons, regarding the impact of the proposed operation on the particular locality of the premises in a residential area. The Sub-Committee observed from the Report that a vast number of written representations had been received - including from the local MP, the two Ward Councillors, the Alum Rock Community Forum, two local mosques, a housing association, a youth football academy and scores of local residents. In addition, two petitions had been submitted - an online petition with 1,000 signatures, and also a further petition, with 155 handwritten signatures.

The Sub Committee heard first from the applicant's representative. He explained that the applicant had some 15 years' experience in running similar off-licence premises in Birmingham, and also in Leicester; he had taken a long lease of the shop and was in the process of refurbishing it. The representative acknowledged the huge number of written representations, but cited the case of Daniel Thwaites plc v Wirral Borough Magistrates' Court [2008] EWHC 838 (Admin) in urging the Sub-Committee not to be unduly influenced by speculative representations, especially in the light of the applicant's previous experience in the off-licence retail trade.

The Sub-Committee then heard directly from four other persons, who attended the meeting to address the Members. The other persons were a local Ward Councillor, a representative of one of the local mosques, and two members of the public. All of the four lived nearby to the Bridge Road area of Saltley.

All four persons knew the Bridge Road area well, as they had lived there for decades; they felt that the operation would be unsuitable for this residential area, which had schools, a nursery and places of worship (three mosques and a church) nearby. This was especially so given that the area was already experiencing high levels of crime, antisocial behaviour and public nuisance. Houses in multiple occupation had become a feature of the area in recent years; the result had been an increase in deprivation, and thereafter the problem behaviour associated with that type of housing.

The four persons made compelling representations regarding the problems which they had experienced in the Bridge Road vicinity whilst going about their day-to-day lives. Crime, drug dealing, drug use, gang activity, robbery, theft, violence, antisocial behaviour, vandalism, extremely high levels of littering (including bottles, glass and drug paraphernalia), extraordinarily difficult parking issues, traffic offences such as speeding, and also the public nuisance created by youths gathering and making noise, mainly from playing loud music and shouting, were all ongoing features of the street scene.

None of the four had any confidence that the applicant's style of management would be able to mitigate their concerns. The Ward Councillor in particular had been thoroughly unamused at the spillage of waste onto the pavement outside the shop at the start of the current refurbishment of the premises. Photographs were put before the Sub-Committee in the Report, showing a large amount of discarded material and junk - including some in a highly unsafe state, such as wooden planks with large nails protruding from them. The discarded material had been left outside the front of the shop for fifteen days, and had only been removed when the Ward Councillor contacted the City Council to ask an Enforcement Officer to intervene.

A particular concern was the public safety aspect of dangerous items being left on the street, particularly when children could be around. The applicant's representative stated that this had not been likely during the national lockdown which was in force due to the Covid-19 pandemic, as children were not outside; however the point was that dangerous items should not have been left on the pavement in the first place, and certainly not for over two weeks.

It was the Ward Councillor's view that any businessman, particularly one said to have considerable experience in operating off-licence premises, should conduct a shop refurbishment with a more responsible and considerate attitude towards the local community. The nuisance and potential risk to public safety created by the large stack of waste outside the shop had given the Ward Councillor no confidence whatsoever that the applicant was a professional person who would uphold the licensing objectives and manage the shop in a careful manner. The Ward Councillor remarked that the issues arising from the refurbishment had demonstrated that the applicant's "fifteen years' experience" did not offer much in the way of reassurance regarding the management style which local people could expect.

The Sub-Committee looked askance at the photographs of the stack of discarded material, noting that it had been left outside the shop for over two weeks during the start of the refurbishment; the Sub-Committee agreed with the Ward Councillor that this showed something of an irresponsible attitude on the part of the applicant. Making proper arrangements for the disposal of waste material during a refurbishment was a normal part of taking on new premises for any businessman. As such, it was difficult for the Sub-Committee to have full confidence that the applicant would take seriously the upholding of the licensing objectives, despite his 15 years' experience in running off-licence shops; this was likely to have a detrimental effect on the existing problems in the particular locality of Bridge Road.

The Ward Councillor also addressed the Sub-Committee on the views of local residents towards the application; this included an objection submitted by a housing association, which had observed that many of their elderly tenants were already afraid of the crime levels in the area. The Sub-Committee concluded that in these circumstances, a highly responsible attitude from the applicant would be required; however the Ward Councillor had shown that it was doubtful that the applicant would take a firm approach to the upholding of the licensing objectives.

The other three persons making representations then gave the Sub-Committee a great deal of useful background detail about the crime and public nuisance issues in the area.

One of them observed that as residents of the Bridge Road vicinity, they knew far more about these issues than the applicant, who lived in Aston. The same person rejected the suggestion that their representations were 'speculative' under the Thwaites criteria, observing that as local residents they were the people who were best placed to comment on the likely impact of the proposed operation, due to their direct local knowledge. Whilst the Police had been minded to accept a reduction in the operating hours, such that alcohol sales would end at 23.00hrs and not at midnight, those living in the area were of the view that a one-hour reduction would not be sufficient to mitigate the rise in crime and public nuisance which would arise from the granting of the licence.

All four of the other persons were certain that to permit the application would lead to an increase in the high levels of crime and antisocial behaviour which already plagued the area. The issue was therefore whether the applicant would be capable of upholding the licensing objectives if the licence were granted. The Sub-Committee carefully considered the operating schedule put forward by the applicant, and the likely impact of the application, but were not persuaded that that the applicant was a person suited to this particular location. The issues created during the refurbishment had been rather a bad start, and had not inspired confidence in the applicant's management style.

The Sub-Committee gave consideration to whether any measures could be taken to ensure that the four licensing objectives were 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.

Whilst it was true that the Police were ordinarily the experts on crime levels, the four other persons had explained the full background of the problems in terms of the detrimental effect which a grant would have on the lives of local residents, such that the Sub-Committee saw the importance of examining the applicant in terms of his ability to promote the licensing objectives in what was already a difficult part of Saltley.

Despite the shortened hours being acceptable to Police, it was the Sub-Committee's overall view that the proposed operation did not suit the Bridge Road residential area, even with shortened hours. The vast number of objections received by the City Council had been remarkable, and showed the strength of local opposition. The Sub-Committee considered that those living nearby were the people who knew the area best; they also would be the people directly affected. It was therefore local residents who were best able to comment on the suitability of the application, particularly given what they had directly witnessed during the refurbishment.

The response of the local residents had been a resounding 'no', due to a complete lack of confidence that the applicant would take a responsible attitude and uphold the licensing objectives. This was not speculation or conjecture, but had been based on what they had directly observed of the applicant's management style. 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's representative 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.