BIRMINGHAM CITY COUNCIL

LICENSING
SUB-COMMITTEE B
22 JULY 2025

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY 22 JULY 2025 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Saddak Miah in the Chair.

Councillors Jane Jones and Adam Higgs.

ALSO PRESENT

David Kennedy – Licensing Section
Joanne Swampillai – Legal Services
Katy Poole – Committee Services

(Other officers were also present for web streaming purposes but were not actively participating in the meeting)

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1/220725 **NOTICE OF RECORDING/WEBCAST**

The Chair advised the meeting that the meeting would be webcast for live or subsequent broadcast via the Council's Public-I microsite (please click this link) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2/220725 **DECLARATION OF INTERESTS**

Members were reminded that they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at the meeting.
If a disclosable pecuniary interest was declared, a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they had been granted a dispensation.
If other registerable interests were declared, a Member may speak on the matter only if members of the public were allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.
If it was a 'sensitive interest', Members did not have to disclose the nature of the interest, just that they have an interest.
Information on the Local Government Association's Model Councillor Code of Conduct was set out via http://bit.ly/3WtGQnN. This included, at Appendix 1, an interests flowchart which provided a simple guide to declaring interests at meetings.

3/220725 **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

No apologies were submitted.

4/220725 **MINUTES**

The Minutes of the meeting held on 1 July 2025 at 1000 and 1200 hours were circulated and confirmed and signed by the Chair.

LICENSING ACT 2003 – PREMISES LICENCE – GRANT – ALADDIN'S, 109 LEA VILLAGE, SHARD END, BIRMINGHAM, B33 9SQ.

On Behalf of the Applicant

Sharif Uddin – Agent

On Behalf of those Making Representations

Chris Jones – WMP (West Midlands Police)

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The Chair introduced the Members and Officers present and asked if there were any preliminary points for the Sub-Committee to consider. No preliminary points were made.

The Chair outlined the procedure to be followed at the hearing and invited the Licensing Officer to present his report. David Kennedy, Licensing Section, outlined the report.

At this stage the Chair invited the applicant to make their presentation. Sharif Uddin made the following points: -

a) That the premises had been running for quite a few years.

b) They wanted to operate a delivery service which is why the application had been submitted.

c) The premises would operate as a collection service until midnight and then mostly delivery beyond midnight.

d) He was happy to have a condition on the licence that the premises would be closed at midnight and only operate deliveries beyond midnight.

e) His client was also happy to reduce the hours to 0100 hours on weekends and 12 midnight on weekdays.

f) There is another premises in the area open until 0200 hours.

g) His client needed to adapt the business to survive in the current climate.

Members asked questions and Sharif Uddin gave the following response: -

a) That he did not know if the flats above the premises were occupied. However, even if they weren't he could not guarantee that they would stay unoccupied.

b) They had consulted neighbours who were happy with the application.

c) The sign outside the premises was put up in anticipation of the application being granted and for advertisement purposes. It is not a permanent fix because they needed to gain planning permission first.

d) The original application was for 0400 hours so they had flexibility to respond to demand.

e) The new hours were 12 midnight Sunday-Thursday and 0100 hours Friday and Saturday.

David Kennedy, Licensing Officer made a point of clarification. He advised the Committee that he could not find a premises with hours until 0200 hours. The premises may advertise those hours, however that did not make it lawful.

David Kennedy further confirmed that he had found a licence 'Tabby Kebab House' which had a licence until 0200 hours Monday-Sunday.

The Chair invited Chris Jones, WMP to make his presentation. He made the following points: -

a) The new offered hours were not disclosed to WMP before the hearing. It is the first time they had heard about them. The representations submitted by WMP were made on the basis of the initial application.

b) The initial application sought to sell alcohol until 0400 hours seven days a week.

c) The premises is located in a row of shops where there are residential flats above.

d) He was concerned about the long opening hours until the early morning with residential flats above as it would undermine the prevention of public nuisance licensing objective.

e) He carried out the usual due diligence checks for the application and found there had been concerns of public nuisance in the planning permission which was originally agreed.

f) Subsequently the planning permission was granted but with restricted hours.

g) The planning permissions were evidenced in WMP's document bundle.

h) The planning permission was granted with restrictions to the hours and as such WMP shared the same concerns due to residents occupying the flats above the premises.

i) The primary concern is the prevention of public nuisance.

j) WMP had submitted the email exchange between the applicant and evidence that many of the proposals were not agreed by WMP.

k) WMP believed carrying out licensable activity beyond midnight would have a negative impact on residents and respectfully asked the Committee to either reject the application, or grant with restricted hours proposed by WMP and the agreed conditions.

l) Further to note that if the premises operated beyond midnight they would in fact be in breach of the planning consent.

Members asked questions and Chris Jones, on behalf of WMP confirmed that he had not looked at any crime or anti-social behaviour issues in the area as their objection was solely on the prevention of public nuisance licensing objective.

The Chair the invited the applicant to make a brief closing submission where they summarised the points made previously.

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

5/220725 **RESOLVED**

That the application by Mohammed Wasim Akram for a premises licence in respect of Aladdin's, 109 Lea Village, Shard End, Birmingham B33 9SQ, be granted with the following amendments, in order to promote the licensing objective of the prevention of public nuisance.

The hours for the provision of Late Night Refreshment, to operate indoors only, to be those offered by the applicant's agent during the meeting, namely:

- from 23.00 hours to 00.00 midnight from Sunday to Thursday
- from 23.00 hours to 01.00 hours on Friday and Saturday

Premises to remain open to the public:

- from 12.00 midday to 00.00 midnight from Sunday to Thursday
- from 12.00 midday to 01.00 hours on Friday and Saturday

All those conditions which were agreed between the applicant and West Midlands Police in advance of the meeting are adopted, namely:

- Delivery drivers will not sit outside the premises with vehicle engines running

- Delivery drivers will not play music outside the front of the premises that is audible outside their vehicle

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 applicant was represented at the meeting by his agent. West Midlands Police also attended the meeting. The Sub-Committee noted all the documents in the Committee Report.

The agent for the applicant addressed the Sub-Committee and confirmed that the proposal was to provide a late night takeaway service for collection and delivery. The application had originally been submitted requesting operation to 04.00 hours. However, following consideration of the Police representations which were in the Committee Report, the applicant had been happy to close the premises completely at 00.00 midnight from Sunday to Thursday, and 01.00 hours on and Friday and Saturday; these hours would apply to collection and deliveries. The Sub-Committee noted this.

The agent remarked that these amended hours would “drastically reduce” the applicant’s business model. The new proposed end time would be in line with other takeaway restaurant facilities around the area - namely 00.00 on weekdays and 01.00 at weekends. The Sub-Committee noted the agent’s remarks about the similar premises nearby.

The agent assured the Sub-Committee that the applicant understood the concerns raised in the written representations, but remarked that, “as a business in this day and age he has to survive, and any little business late night or early evening does help his model to work”. The Sub-Committee accepted this.

The agent confirmed that the applicant had consulted the residents living upstairs, and had confirmed that they were happy that a business would be trading downstairs rather than leaving the shop empty. The Police also accepted that it appeared that the property above the premises was indeed occupied.

Photographs of the premises were in the documents submitted by West Midlands Police. The agent confirmed that the reasons that the premises’ sign stated that the premises operated to 03.00 hours was because it had been put up in anticipation of the application being granted, as the applicant had not had any problems previously. The applicant accepted that the hours would have to be approved by Planning first.

Members asked about the other premises in the vicinity, including a takeaway chicken premises over the road which had been mentioned by the agent. However, the Principal Licensing Officer confirmed that he could not find any premises licence which would authorise trading beyond 23.00 hours in force for that address on Kitts Green Road.

Members mentioned a further premises (a kebab house at 298 Kitts Green Road) which was noted on the Police documents as permanently closed. The Principal Licensing Officer confirmed that there was a premises licence in force for that address, now under the name ‘Wall St Burgers’, for operation to 02.00 hours, seven

days a week, since November 2024. The Sub-Committee noted this – in particular that it permitted operation to 02.00 hours.

The Sub-Committee was aware that paragraph 9.43 – 9.43 of the Guidance issued by the Secretary of State under s182 of the Act required that any decision had to be proportionate and evidence-based. The Members were mindful that there was also a presumption to grant such applications unless there was good evidence of a risk to the promotion of the licensing objectives.

Furthermore, the Sub-Committee was aware of the relevant caselaw, namely *R (on the application of Daniel Thwaites plc) v Wirral Borough Magistrates' Court [2008] EWHC 838 (Admin)*, which emphasised the principles laid down by the Licensing Act 2003 and its accompanying Guidance – namely that there should be light touch bureaucracy applied to applications for licences, and that restrictions should only be attached to premises licences where they were necessary to promote the licensing objectives.

That case highlighted the fact that decisions on applications should be made on evidence, and not based on speculation. The Sub-Committee was aware that if the authority gave weight to speculative opinions, it would in fact fail to follow the Guidance, and its own Statement of Licensing Policy.

The Sub-Committee therefore looked carefully at whether there was evidence that the proposed operation would in fact have an adverse effect on the licensing objectives when considering submissions made against the application by the Police.

The Police noted the amended hours offered during the meeting, and explained that their presentation had been drafted to address the times that were previously offered (ie operation to 04.00 hours).

The Police had been concerned that an application for operation to 04.00 hours, with residential properties situated above the parade of shops, would have a negative impact on the residents, undermining the prevention of public nuisance licensing objective at a time when residents would be trying to sleep.

The Police had also looked at planning permission for the site, but accepted that Planning and Licensing were entirely separate regimes. The Police had checked whether concerns around the prevention of public nuisance had been a consideration when planning permission had originally been granted. It had appeared that the Planning committee had considered the effect of late night opening on the residents when planning permission was granted, and this had been the reason that planning permission had been granted with restricted hours.

The Police considered that the restricted Planning hours had been intended to stop the premises opening late and having a negative impact on the residents above the shops. The Police therefore suggested shortening the hours to midnight, and the adoption of two extra operating conditions relating to delivery drivers. The Police considered that this would address the prevention of public nuisance objective satisfactorily.

Whilst the applicant's agent had stated that in the absence of any historical incidents, complaints or substantiated concerns related to the premises, it did not appear proportionate to reach a conclusion based solely on conjecture, the Police pointed to the Guidance issued under s182 of the Act, which encouraged both responsible authorities and licensing authorities to impose restrictions for the prevention of public nuisance. The Police believed that carrying out licensable activity past midnight would have a negative effect on the residents.

The Police confirmed that there was no evidence of antisocial behaviour created by any of the other takeaways, and reiterated that the objection had been made solely on public nuisance grounds, due to the potential for a negative impact on the persons living above the premises. The Police also confirmed that they had not been informed in advance of the shortened hours offered by the agent in the meeting, and remarked that if they had been informed, the meeting might not have been necessary The Sub-Committee noted this.

When deliberating, the Members determined that the shortened hours offered by the applicant were reasonable, particularly given that the nearby 'Wall Street Burgers' was permitted to trade to 02.00 hours. The style of operation was not likely to create risks to any of the upholding of the licensing objectives, including the prevention of public nuisance - the Members noted that the application was for late night refreshment only.

The Members were aware of relevant case law, namely *R (on application of Hope and Glory Public House Ltd) v City of Westminster Magistrates' Court and Others (2011) EWCA Civ 312*, which had confirmed that licensing decision making was a balancing exercise between the legitimate concerns of people in communities about the impact that licensed premises could have upon their lives, and the licensed premises themselves. The agent had requested that the Sub-Committee should give the applicant a chance. The Sub-Committee was reassured by the reduced hours and agreed conditions.

The Sub-Committee examined the written objections in the Committee Report carefully, but determined that the fears expressed by the Police had been addressed satisfactorily via the reduced hours and the agreed conditions relating to delivery drivers.

The Sub-Committee did not see that any extra measures were required, as all potential risks to the upholding of the licensing objectives had already been satisfactorily addressed. The applicant had offered a carefully thought out operating schedule. The Members found all to be in order in terms of the proposed operating style, and a responsible style of trading had been proposed. The Members were therefore satisfied that any potential for issues had been sufficiently addressed in the application, the shortened hours and agreed conditions.

Accordingly, after careful consideration, the Sub-Committee determined that the application could safely be granted with the amendments offered by the applicant. The Members considered that by granting the application, the licensing objectives in the Act would be properly promoted. The Sub-Committee was satisfied that trading would be safe, and considered that all areas of concern had been addressed.

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 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.

The meeting ended 1046 hours.

Chair……..