

# BIRMINGHAM CITY COUNCIL

<b>LICENSING SUB - COMMITTEE C - 9 OCTOBER 2019</b>
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**MINUTES OF A MEETING OF  
LICENSING SUB-COMMITTEE C HELD  
ON WEDNESDAY 9 OCTOBER 2019  
AT 0930 HOURS IN ELLEN PINSENT ROOM,  
COUNCIL HOUSE, BIRMINGHAM**

**PRESENT:** - Councillor Mike Leddy in the Chair;

Councillors Martin Strake-Welds and Neil Eustace.

**ALSO PRESENT:**

Bhapinder Nandhra– Licensing Section  
Joanne Swampillai – Legal Services  
Katy Townshend – Committee Services.

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**NOTICE OF RECORDING**

1/091019 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

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**DECLARATIONS OF INTERESTS**

2/091019 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests arising from any business discussed at the meeting. If a disclosable pecuniary interest are declared a Member must not speak or take part in that agenda item. Any declarations to be recorded in the minutes of meeting.

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**APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

3/091019 Apologies were submitted on behalf of Councillor Philip Davis, and Councillor Martin Straker-Welds was the nominee Members.

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**LICENSING ACT 2003 PREMISES LICENCE – REVIEW – 24/7 CONVENIENCE  
EXPRESS, 41 HORSE FAIR, BIRMINGHAM, B1 1DA**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 1)

The following persons attended the meeting.

**On Behalf of the applicant for Review of the Licence**

*Kam Panesar – Trading Standards (TS)*

*Geary Warmington – Trading Standards (TS)*

**On behalf of the Premises**

*Rahmat Hassanpoor – Premises Licence Holder (PLH)*

*Sofia Hassanpoor – Wife*

*Rob Edge – Agent – Licence Leader*

**Those Making Representations**

*PC Ben Reader – West Midlands Police (WMP) – arrived late 0946 hours.*

*Chris Jones – West Midlands Police (WMP)*

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The meeting started at 0934 and PC Reader joined the meeting at 0946, as he was held up.

Following introductions by the Chairman, all parties were invited to make any preliminary points. At which stage Chris Jones, on behalf of WMP, made the points specified below: -

1. That the CCTV/photographs footage was to be held in private due to ongoing investigations and therefore the public should be excluded.

The Chairman advised that the CCTV would be heard in private.

The Chairman then invited the officer to read the report. Bhapinder Nandhra, Licensing Officer outlined the report.

The Chairman clarified the procedure to be followed at the meeting and confirmed the order of parties making their representations to the Sub Committee.

The Chairman invited Trading Standards (TS) to present their case.

Kam Panesar, on behalf of TS, made the following points: -

- a) That they received a complaint from a Birmingham consumer about counterfeit cigarettes being sold at the premises. As a result of the complaint they visited the premises on 22 October 2018 and warned the PLH about the problems and issued a trader's notice.
- b) Then in June 2019 another complaint was received about illicit cigarettes and alcohol being sold at the premises again. There were also issues of single cans being sold to individuals.
- c) On 4<sup>th</sup> July 2019 officers visited the premises and a notice of powers and rights was issued to the Mr Galar. The PLH and DPS were not present on that day.
- d) That when the inspection was carried out, they found a black case under the till, the employee said, "he didn't know what it was and didn't have the code".
- e) That when they asked the PLH about the case and the code he also said "he didn't know the code" as it wasn't his. The case was confiscated, and the officers left a notice stating that they be contacted within 7 days or the case would be forced open.
- f) That a representative emailed the office on behalf of the PLH and said it was left in the shop by a customer and they gave consent for it to be opened.
- g) However, the code had been discovered and was the date of birth of the PLH's wife.
- h) They found 57 packets of illicit cigarettes and a sample was taken for inspection and confirmed to be illicit. However, they were still awaiting the results of the second sample.
- i) That a separate investigation was carried out by TS and the PLH had been invited to attend a meeting with the officers, however, he failed to attend. The agent had been in regular contact with officers.
- j) The PLH had the relevant training but had no regard for what he should be doing and had breached at least 2 licensing objectives.
- k) They recommended revoking the licence.
- l) That the PLH had also been reported for selling tobacco to under aged persons.

In answer to Members questions Ms Panesar made the following points: -

- 1. That they had not carried out any tests purchases at the premises.
- 2. That they had an open source database and when they checked the searches, they found the date of birth and tried it, which opened the case.

3. That the illicit cigarettes were very similar to originals, however, they didn't know how the members of the public knew they were illicit.
4. They found 57 packs of illicit cigarettes.

PC Reader was invited by the Chairman to make his representation, at this stage PC Reader, on behalf of WMP, outlined the following points: -

- a) He apologised for being late.
- b) That he went to the premises quite a lot.
- c) There was an issue with street drinking and pre-loading in this location.
- d) That on Saturday 10<sup>th</sup> August he visited the premises and looked at the products they stocked, there was a lot of high strength single cans. At 0130 hours in the morning there were several street drinkers inside the premises, one was in a wheel chair and they went straight to the high strength single cans, they purchased them and then proceeded to drink them outside in the bus stop. The premises had fuelled that. PC Reader had to go outside and speak to the street drinkers about their rowdy, anti-social behaviour. The premises were not promoting the licensing objectives.
- e) That himself and Chris Jones were doing enforcement visits to places selling super strength alcohol trying to stop premises taking contactless payments as people had been stealing cards and going straight to premises buying alcohol using contactless payments from these stolen cards.
- f) That more and more people were going to the premises to buy super strength alcohol.
- g) PC Reader witnessed a male get in the queue in 'Rodroj', who he believed was drunk. The cashier refused the male however, PC Reader and Chris Jones left the premises and went to 24/7 Convenience Store, they saw the male who had alcohol which he must have got elsewhere. They reviewed the CCTV from 24/7 Convenience Store, and it was clear to see those males were served 8.4% cider. The staff said they didn't believe they were drunk; however, it was just another instance of the premises putting profit first.
- h) It was concerning that they were not checking if people were intoxicated and then serving them high strength alcohol. It was no wonder that there was a street drinking issue at the locality of the premises.
- i) That there were pictures in the evidence bundle of Knights cider that street drinkers had been drinking, for sale at £1 at the premises. There were additional photographs showing the vast array of high strength alcohol on sale at the premises, as well as a photo of a baseball bat which was found behind the counter, and dealer bags. It did not appear to WMP that the premises were promoting the licensing objective of crime and disorder.

- j) Moreover, there were photographs included in the documents showing drug paraphernalia, grinders, pizza takeaway at the rear of the shop. The pizza shop was not on the plans and therefore was a breach of the licence.
- k) That Birmingham City Council Licensing Enforcement had issued a trader notice due to the breaches of licence regarding the pizza shop.
- l) That something else had come to light but it was on the CCTV/pictures and to be shown in private.

At this juncture, the Chairman advised that the public would now be excluded from the meeting. The press reporter began to leave the room, but had left his phone in the public gallery, the Licensing Officer advised him that he must take his phone with him as recording devices were not to be left in the room during the private session and the Chairman advised him that he needed to take his rucksack with him also.

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### **EXCLUSION OF THE PUBLIC**

04/091019

### **RESOLVED:**

That in accordance with Regulation 14 of the Licensing Act 2003 (Hearing) Regulations 2005, the public be excluded from the hearing due to the sensitive nature of the evidence to be presented.

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At this stage in the meeting having viewed the CCTV footage in private the public were readmitted to the meeting.

In answer to Members questions PC Reader made the following points: -

- a) That they first visited the premises 16<sup>th</sup> September 1905 hours after visiting the other premises around the corner – that was the first documented visit. The other visit was 10<sup>th</sup> August but was not documented.
- b) That he visited the premises regularly as it was a hot spot area for people gathering.
- c) That the pizza place was in operation, people were buying them out the back of the store. He noticed it on his first visit but didn't take the photographs until the second visit.
- d) That there were issues with people gathering in that area.
- e) That the premises should not serve alcohol to drunk persons.
- f) That the pizza shop was a breach of the plans, so was in fact a breach of licence.

On behalf of the PLH, Mr Rob Edge, made the following points: -

- a) That the owner of the business was fully aware that the sale of illicit products was extremely serious.
- b) That the owner had taken his eye off the ball due to “events”.
- c) That he had £30,000 worth of products stolen from the premises, then had another child, then shortly after his wife was diagnosed with Cancer, therefore he had left the daily running of the premises to the Designated Premises Supervisor (DPS). It was an error on his part.
- d) That because of his wife’s illness, they took their son to Iran.
- e) That he knew there was no excuse as he was responsible as he was the PLH.
- f) That they would close the business for 1 month, replace the DPS and ensure they did all the necessary work to turn the business around.
- g) That there were no excuses, but the PLH wanted the Committee to look at the circumstances that led to this situation.
- h) That the PLH wanted to work closely with responsible authorities to eliminate the reputation the shop had gained.
- i) That he was surprised that the premises came to the attention of TS and WMP in October 2018, over 12 months ago.
- j) That one of the things WMP could have requested was that the premises submit a minor variation with conditions regarding no single can sales and no super strengths.
- k) That there had been no test purchases carried out at the premises so there was no evidence of single can sales or cigarettes. There was only an allegation and no actual evidence.

Mrs Hassanpoor made the following points: -

- a) That PC Ben Reader knew she was involved with the business and did all the paperwork and training however since having a child and being diagnosed with stage 4 ovarian cancer she had not been so involved.
- b) That she had gone from being an independent woman to a woman who had to be dressed by her husband – as a 34yo woman she found it awful.
- c) That they had to send their son to Iran.
- d) That she had lost her independence, her son and then to lose their livelihood on top, they wouldn’t cope.
- e) That they would close shop for a month and get everything sorted.

- f) That she only had one more round of treatment left and then she would be around more.

In answer to Members questions Rob Edge, on behalf of the PLH, made the following points: -

- a) That the late-night refreshment and Pizza element had only been running a couple of months and they had appointed a planning consultant to facilitate changes to the plan and submit a variation. That it would be “jumping the gun” to take any action on it today.
- b) That the PLH got confused about what they were permitted to do with a late-night refreshment licence.
- c) That the PLH believed the DPS requested somewhere secure to keep documentation and Mrs Hassanpoor gave him the brief case.
- d) That Mr Hassanpoor admitted that illicit cigarettes were being sold but he believed it was the DPS who was doing it.

The Chairman asked who the DPS was. Bhapinder Nandhra, Licensing Officer advised that due to a system error the previous DPS was listed in the paperwork, however, it was Mr Hassanpoor who was the DPS.

In answer to Members questions Mr Hassanpoor made the following points: -

- a) That he had visited the shop over the last 12 months for a “few hours here and there”.
- b) That the glass pipe and grinders found at the premises were from the cash and carry and was a common finding in most off licences and was not illegal.
- c) That they didn’t sell pizza in the shop, it was a bakery.
- d) That they no longer allowed contactless payments.
- e) That the baseball bat was found outside the shop and was put in the shop.

Mrs Hassanpoor made the following points: -

- a) That they had been in area for 19 years so knew the customers well.
- b) That the meeting area on the photographs were just people chatting that he knew.
- c) That they couldn’t control people drinking around the premises.
- d) That there had been incidents with contactless payments, so they no longer allowed them.

The Chairman referred to the documents submitted by the agent for the PLH as it stated that the premises would close for 2 weeks, yet at the meeting the agent

had said they would close for 1 month; the Chairman asked the agent to confirm which time frame it would be?

Mr Edge advised that the premises would close for 1 month – it was an error on his part.

In answer to Members questions Mr Hassanpoor made the following points: -

- a) That Rodroj banned people and then those individuals came to his premises, but they were having a laugh and chat with the staff whom didn't think they were drunk. They didn't believe those persons were drunk and therefore they didn't refuse to serve them.
- b) That he refused too many people who were drunk and ended up in arguments with them.

In answer to Members questions Mrs Hassanpoor and Mr Hassanpoor made the following points on behalf of the PLH: -

- a) That they would have to deal with the outcome of the meeting, and she would make sure that the premises was back up to standard.
- b) That it was only after her diagnosis that the shop had become problematic.
- c) That Mrs Hassanpoor had discussed being DPS with the agent and would discuss it further after her last Chemotherapy session.
- d) They pleaded with the Committee to give them a chance.

In summing up, the representatives of Trading Standards made the following points: -

- ❖ That TS were in the process of investigating and had invited Mr Hassanpoor for interview twice and he had failed to attend; that was his opportunity to explain and he didn't even turn up.
- ❖ That as for tests purchases, they had been to the premises on the back of complaints and had found the illicit cigarettes. Therefore, test purchases were the next thing to be done.
- ❖ That they appreciated Mr and Mrs Hassanpoor's submissions, but Mrs Hassanpoor was not the PLH or DPS so was therefore, not responsible for ensuring the licensing objectives were promoted. Additionally, it just highlighted Mr Hassanpoor's lack of control over the premises further.
- ❖ That Mr Hassanpoor had clearly not been promoting the licensing objectives and therefore had put customer health and safety at risk.
- ❖ They strongly recommended that the Committee revoke the licence.



In summing up, PC Reader on behalf of WMP, made the following points: -

- ❖ That it had gone a long way off “taking his eye off the ball”, it was now criminal activity.
- ❖ That the agent said the brief case was for documentation, if that was the case why didn't they give the officers the code straight away?
- ❖ That no test purchases had taken place, however, when TS had visited after the complaint, they found illicit cigarettes so that confirmed the complaint to be correct.
- ❖ That the agent had said that WMP should have asked the premises to submit a variation with addition conditions regarding high strength alcohol and no single can sales, however if the PLH knew that it wasn't appropriate then why were they selling it in the first place?
- ❖ That they were not going to get to the bottom of whether the individuals were drunk, but PC Reader and Chris Jones believed they were.
- ❖ That they were fuelling street drinking in the city centre which was a problem.
- ❖ That TS were asking for revocation and WMP would be supporting that decision.
- ❖ That whilst the Committee may attach weight to Mrs Hassanpoor's representation, it was important to remember that Mr Hassanpoor was the PLH and DPS and ultimate responsibility lay with him. WMP did not have confidence in Mr Hassanpoor.
- ❖ That the agent had offered lots of conditions and perhaps the Committee should look at the hours if they were minded not to revoke. However, the premises needed an entire overhaul in order to alleviate problems.
- ❖ However, WMP were asking for revocation of the licence as they had no confidence in Mr Hassanpoor.

In summing up, Rob Edge, on behalf of the PLH, made the following points: -

- ❖ That he didn't want to go over it all again. It had been more than a huge wake up call for the family.
- ❖ That the basic principle of closing for 1 month was with the idea of changing the name of the premises, signs up saying under new management and they could submit a transfer of DPS to Mrs Hassanpoor. They would do more training, challenge 25 policy and the PLH would be taking his responsibilities seriously moving forward.
- ❖ That WMP said that high strength alcohol and single can sales were fuelling street drinking that's why he suggested that if the situation

was that bad why didn't they ask for a minor variation for no single can sales and not super strength alcohol – it would be a solution all round. It would have aided WMP in reducing outlets to street drinkers.

- ❖ That they had a training package with clear policies on things like “chip and pins”.
- ❖ That any member of staff that wasn't willing to undergo all the training and personal licence holder tests to be replaced.
- ❖ That initially he thought 2 weeks would give them enough time to put all the above into place, however, he realised that more time was needed, so had offered 1 month.
- ❖ That it would also allow them to feel the financial pinch and understand the consequences to their actions.

At this stage (1109 hours) the meeting was adjourned and all parties with the exception of the Members, Committee Lawyer and Committee Manager withdrew from the meeting.

At 1212 the meeting was reconvened, and all parties were invited to rejoin the meeting and the decision of the Sub Committee was announced: -

05/091019

**RESOLVED:-**

That, having reviewed the premises licence held under the Licensing Act 2003 by Mr Rahmat Hassanpoor, in respect of 24/7 Convenience Express, 41 Horse Fair, Birmingham B1 1DA, upon the application of the Chief Officer of Weights and Measures, this Sub-Committee hereby determines that:

- the Licence be revoked, and that
- Mr Rahmat Hassanpoor be removed as Designated Premises Supervisor

in order to promote the public safety and prevention of crime and disorder objectives in the Act.

The Sub-Committee's reasons for revoking the licence are due to concerns expressed by the Chief Inspector of Weights and Measures. A Trading Standards Officer attended the meeting and told the Members of the Sub-Committee about the packets of illicit tobacco products contained in a briefcase, stored under the till, which had been discovered during an inspection of the premises carried out by Trading Standards Officers. The explanation given to officers by Mr Hassanpoor (namely that the briefcase belonged to somebody else, and that Mr Hassanpoor was no longer in contact with that person) was not accepted, especially in view of the fact that the combination used to lock the briefcase appeared to be the date of birth of Mr Hassanpoor's wife.

It was the recommendation of Trading Standards that the licence should be revoked as the premises was incapable of upholding the licensing objectives. West Midlands Police made representations supporting this proposed course.

The Police had concerns about irresponsible sales of alcohol to street drinkers, which was contributing to anti-social behaviour blighting the area.

The Sub-Committee had grave concerns about the manner in which this premises had been operating, and therefore paid close attention to the submissions of Mr Rahmat Hassanpoor, who attended the meeting and addressed the Sub-Committee. Mr Hassanpoor was both the Designated Premises Supervisor, and the Premises Licence Holder.

After hearing all the evidence, Members of the Sub-Committee determined that the sale and storage of illicit tobacco was indeed so serious that it could not be tolerated, and therefore resolved to revoke the licence as recommended by the Chief Officer of Weights & Measures.

The Sub-Committee agreed with Trading Standards that the operation had been managed in a way that was not merely irresponsible, but also illegal. A determination to revoke would follow the Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003. There were no compelling reasons to depart from the Guidance on this occasion.

Mr Hassanpoor's explanations did not inspire any confidence whatsoever that he understood the licensing objectives. This warranted the removal of him as the Designated Premises Supervisor. The course proposed by Mr Hassanpoor's adviser was also inadequate as it failed to address the seriousness of the management failings, and instead focused on 'training'. The Sub-Committee had no confidence that a training programme would be sufficient to address the management failings of a Designated Premises Supervisor prepared to sell illicit tobacco.

The Members of the Sub-Committee gave consideration as to whether they could modify the conditions of the licence, or suspend the licence for a specified period, but were not satisfied given the evidence submitted that the licensing objectives would be properly promoted following any such determination, for the reasons set out above.

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 review, the written representations received and the submissions made at the hearing by the Chief Inspector of Weights & Measures, by West Midlands Police, and by the Designated Premises Supervisor and his adviser.

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 determination of the Sub-Committee does not have effect until the end of the twenty-one day period for appealing against the decision or, if the decision is appealed against, until the determination of the appeal.

**LICENSING ACT 2003 PREMISES LICENCE – GRANT – FLAME CAFÉ  
LOUNGE, 77 BUCKINGHAM STREET, HOCKLEY, BIRMINGHAM, B19 3HU**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 1)

The following persons attended the meeting.

**On Behalf of the applicant**

*Aram Mustafa – Director*

*Rebecca De Silva – Representative*

*Anthony & Margaret Burns – Lease Holders*

*Deber Salih*

**Those Making Representations**

*Lynn Davis – Member of the public*

*Gabriel Malas – Members of the public*

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The meeting started at 1235.

Following introductions by the Chairman, all parties were invited to make any preliminary points. There were no preliminary points raised.

Mr Malas interjected the Chairman saying, “I don’t understand he said he is the landlord, but I am the freeholder...”. Further, that he wanted to delay the meeting, but it couldn’t be delayed any further. His lawyer couldn’t attend and therefore, he had a list of things to go through. That he had tried to resolve matters but couldn’t. He had a further document to submit.

The Chairman advised Mr Malas that the additional document he wished to submit had not been served on all parties and therefore the document would have to be shown to everyone at the meeting before it could be served on the Members.

(Please see Document 3.)

Chairman advised that the purpose of the meeting was for licensing issues and not planning or who owned the freehold or lease hold. It was purely a licensing Committee and therefore only the application for licensing could be considered at the meeting.

Bhapinder Nandhra, Licensing Officer, outlined the report.

Ms De Silva, on behalf of the applicant, made the following points: -

- a) That she would address the relevant objections. In terms of crime and disorder she wanted to address the closing time of 0200 hours – there had been no objections from WMP in relation to that. The guidance suggested that each responsible authority was an expert in their own field and would be the Committees main source of advice.
- b) That the second objection referred to the issue of no CCTV – but it was detailed within the application that CCTV was to be supplied and plugged in for an entry and egress view of the premises.
- c) That they had submitted a further condition (see document 2.) which had been submitted to Mr Malas as well – the provision for CCTV was included in that document.
- d) That the condition that specifies challenge 25 policy would not apply as they did not intend to sell alcohol.
- e) That the fire exits were shown on the plan and there was a proposed condition that the premises would undertake fire risk assessments which would be reviewed at the appropriate time.
- f) That records of training were kept within the premises and were updated regularly, ready for inspection.
- g) That the objection in relation to public nuisance raised concerns over traffic increase and suggested there was no prevention of nuisance provision. However, the premises was located near several different businesses, others which were open until 4am in close proximity – yet there had been no objections to those licences. If Mr Malas's objection was truthful he would have objected to those licences also.
- h) That Mr Malas lived in Kent and therefore was not local to the area. He only attended the area once a week – he was not a resident.
- i) That the background to it was that Mr Malas wanted to buy the leasehold from Mr Burns, however, it was not completed due to funds not being forthcoming. Mr Malas then approached Mr Mustafa...

The Chairman advised that the issues regarding the leasehold were not for the Licensing Committee.

Ms De Silva answer questions from Members: -

- a) That she was just providing the background information.
- b) That the business was purely to buy and sell food.
- c) That the objection in respect of protecting children from harm was not a satisfactory objection.
- d) That Mr Mustafa had run restaurants in the past with no problems.
- e) That the premises had no trading records as it had not been trading.

- f) That the concerns regarding children using the facilities would be allayed as there would be no under 18s allowed in the premises.
- g) That she could guarantee the premises was just for food and was not going to serve alcohol. It was simply a café/restaurant where patrons could listen to music whilst eating food.
- h) That customers would not be permitted to bring their own alcohol.
- i) That the premises would be selling various types of grilled food; easy to pick up and eat.
- j) That the area was becoming more thriving in the night life and it was not the case that the premises would be open until 2am daily, they would monitor it depending on business needs.
- k) That the capacity of the venue was 150.
- l) That the smoking area was in the court yard.
- m) That the premises would not be attracting a high noise level, it was just a food place. They would have security staff and managers to control the noise levels.
- n) That people driving to the restaurant would be able to park across the road in the car park.

Mr Deber Salih answered questions from Members: -

- a) That it was just soft drinks to be served at the venue; they didn't drink.
- b) That the bar area was just for soft drinks and the reception.
- c) That they didn't know the exact hours yet as depended on the customers.
- d) That they would have about 10-15 staff.

Ms De Silva confirmed that Mr Deber Salih was here to assist Mr Mustafa and was also helping him with his business. She added that the conditions imposed were recommended to her by Mr Mustafa, she only met Mr Salih in the morning.

The Chairman asked Mr Mustafa if he knew the 4 licensing objectives.

Mr Mustafa said "...timing and that kind of stuff" in response.

Mr Malas asked if he could respond to the applicant and his legal representative.

The Chairman advised that he should make his submission to the Members.

Mr Malas was invited to make his representation, and made the following points: -

- a) That he never called them, they called him.

- b) That they were chased out after a few days, they then phoned him, but he didn't know how they got his number.
- c) That he accepted to go and meet them and tried to come to an agreement. He met another man, not Mr Mustafa.
- d) That it was the first time he had met Mr Mustafa.
- e) When he met up with the other guy, he felt it was kind of a threat to say "you can be neighbours come and eat or hate each other" – Mr Mustafa left and closed the conversation.
- f) That there was a school opposite.
- g) That the issue with funds was not on his side.
- h) That the bank appointed a surveyor to make an evaluation of the building, however, the gentleman he met refused to see them.
- i) That he couldn't understand the customer base as it was a quiet road of offices.
- j) That they were concerned about the area and if the applicant was going to run a legitimate business then they would have no concerns. They were worried about how the applicant and associates presented themselves.
- k) That other companies didn't see the notice, so didn't object.

Lyn Davis made the following points: -

- a) That she lived locally and had also worked in the area.
- b) That she was aware of the premises and the building had been knocked through so there was no exit from the back, the fire exit was the frontage.
- c) That the windows had metal bars and shutters on them.
- d) That her concern was that the premises would be open to anyone, and there were schools locally.
- e) That there were flats being built at the end of the street.
- f) There had been incidents of cars being broken into, including her own car.
- g) That CCTV wouldn't cover the whole road.
- h) That the persons at the meeting were not the same people who presented when they had a meeting with them before the hearing.
- i) They had asked the applicant lots of questions before and had no responses back from them that gave them confidence.

- j) That there was no passing trade through that area in the evenings.
- k) That she lived in the area.

In answer to Members questions Lyn Davis made the following points: -

- a) The area was industrial.
- b) There wasn't really a community in that area.
- c) That she was satisfied that Mr Mustafa was the owner/applicant.
- d) That there was only street parking.

In answer to Members questions Mr Malas made the following points: -

- a) That the applicant had not talked about security before, that was newly presented at the meeting.
- b) That if they ran a legitimate business he was satisfied.
- c) That he was unsure what food they would serve.

Both Lyn Davis and Mr Burns tried to make points and cross examine, however, the Chairman advised both parties that the opportunity had passed, and everyone would now be invited to make closing submissions.

In summing up, Mr Malas made the following points: -

- ❖ That he had submitted the reasons why he didn't want the application granted.
- ❖ If the business was a good business which would aid the community, then good luck to them.
- ❖ That he made an objection due to concerns over what the applicant intended to do.

Lyn Davis added that there was an issue with the fire exit and there was no way to get out of the building.

In summing up, Ms De Silva, made the following points: -

- ❖ That she did not say school children would be attending the premises, she said the school would be finished before the shop opened.
- ❖ That in the submissions Mr Malas had made he wished the applicant luck and said he was confident they were legitimate.
- ❖ That there were three fire exits demonstrated on the plans submitted with the application.



- ❖ It was a legitimate business and would be good for the area.
- ❖ The food was grilled foods.
- ❖ That they had proposed measures to deal with ASB.
- ❖ They submitted that the application be granted.

At this stage (1340 hours) the meeting was adjourned and all parties with the exception of the Members, Committee Lawyer and Committee Manager withdrew from the meeting.

At 1505 the meeting was reconvened, and all parties were invited to re-join the meeting (However, Cllr Eustace left the meeting as he had another appointment to attend) and the decision of the Sub Committee was announced: -

06/091019

**RESOLVED:-**

That the application by Mr Aram Mustafa for a premises licence in respect of Flame Café Lounge, 77 Buckingham Street, Hockley, Birmingham B19 3HU, BE REFUSED.

In reaching this decision, the Sub-Committee was mindful of the promotion of the Licensing Objectives in the Act 2003. The Sub-Committee's reasons for refusing this application for a premises licence are due to their concerns regarding the impact of the proposed operation given the proposed management.

At the start of the meeting the Sub-Committee noted that there had been no objection from the Responsible Authorities. They were mindful that Licensing is a permissive regime, and that in the absence of objections it is expected that applications will be granted provided there is evidence that an applicant has the capability to promote the licensing objectives. They also noted that there was no application for alcohol permission in the instant application.

The Sub Committee carefully considered the operating schedule put forward by the applicant, and the likely impact of the application, but upon hearing from Mr Mustafa, they were not at all persuaded that he understood the licensing objectives. It was observed that when he was asked directly to state the four licensing objectives, he was unable to name even one of them, despite conferring twice in the meeting with his assistant. This did not inspire confidence at all in an applicant who wished to operate a 150-capacity café premises until 02.00 hours daily, situated in a light industrial type area.

The Sub-Committee also heard representations from other persons, and took these into account as far as they related to Licensing. They disregarded the submissions relating to Planning/

Property issues. 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 nothing would mitigate their concerns over the applicant and his ability to uphold the licensing objectives in this locality. 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, his legal adviser, and 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.

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07/091019 **ANY OTHER URGENT BUSINESS**

There were no matters of urgent business.

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**Meeting ended 1511**

.....CHAIRMAN