

# BIRMINGHAM CITY COUNCIL

<b>LICENSING SUB-COMMITTEE C 23 FEBRUARY 2022</b>
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## **MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 23 FEBRUARY 2022 AT 1000 HOURS AS AN ON-LINE MEETING.**

**PRESENT:** - Councillor Mary Locke in the Chair;

Councillors Mike Sharpe and Mike Ward.

### **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)

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### 1/230222 **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](http://www.civico.net/birmingham)) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

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### 2/230222 **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.

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### **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

3/230222 Apologies were submitted on behalf of Councillor Nicky Brennan and Councillor Mike Sharpe was the nominated substitute Member. Councillor Mary Locke elected to Chair the meeting.

**LICENSING ACT 2003 PREMISES LICENCE – GRANT – SPRINKLES  
DESSERTS, 75 THORNBRIDGE AVENUE, BIRMINGHAM, B42 2PW.**

**On Behalf of the Applicant**

Wajid Ali – Applicant

**On Behalf of the Premises Licence Holder**

Peter Brown – EH (Environmental Health) Officer, Birmingham City Council.  
Doug Wright – LEO (Licensing Enforcement Officer), Birmingham City Council.  
Councillor Hunt – Local Ward Councillor.

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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. There were no preliminary points to consider.

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

The applicant was then invited to make their case and Wajid Ali made the following statements: -

- a) That he had tried to get the opening hour issue resolved with the Licensing Officer. They did not want to open until 5am, as no one wanted desserts at that time. He intended to open until 1am.
- b) The shop was closed at 11pm, this was just for deliveries until 1am.
- c) It would be a key part of the business.

The Chair invited questions from Members and Wajid Ali gave the following responses: -

- a) That he had tried to get the application amended; the man who submitted the application on his behalf also owned a dessert shop and he just did the same application. However, they wanted to do 11pm -1am deliveries. The premises would be closed from 1045pm.
- b) There was a pub opposite and they didn't want people loitering as it is a residential neighbourhood.
- c) They have 1 delivery driver as it was a new shop and was not that busy.
- d) There would be no collections.

- e) The shutter at the front of the premises would be half closed anyway.
- f) The kitchen would only be operating for deliveries and it would only be at weekends.
- g) The back door would be used after 11pm.
- h) They would not be using delivery companies such as Deliveroo because they were not in the catchment area for those companies.
- i) The delivery driver would turn his engine off and then wait inside the premises until the order was ready.
- j) The application was open, but he would only be operating until 1am at weekends.
- k) Covid had hit businesses hard.

The Chair then invited EH to make their case, at which stage Peter Brown made the following statements: -

- a) That the submissions from Wajid Ali had changed his views.
- b) He was supportive of the business and it was popular and well regarded from the reviews online.
- c) The hours initially concerned EH as it was a highly residential area and was not an area typically part of the night time economy.
- d) Caspian Pizza (nearby) shut at 11pm every night.
- e) He didn't see much of a problem with deliveries until 1am. If they can be carried out sensibly he would be comfortable with that.
- f) Takeaway food business would need planning permission, which this premises didn't have as it was a party shop before.
- g) He wasn't sure if there was an extractor system either, if there was and it was operating until 1am that could cause some disturbance to residents so he needed assurance that wouldn't be the case.
- h) They did not have any issue with 11pm close and deliveries until 1am on weekends.

The Chair then invited the LEO, Doug Wright to make his submissions and he made the following statements: -

- a) That he shared the same views as EH.
- b) He was content with 11pm closure and shutters down, then deliveries until 1am.

The Chair then invited Councillor Hunt to make his case, and as such he made the following points: -

- a) That he welcomed the amendments to the application.
- b) That it needed specifying in the licence that the shutters would be closed at 11pm; it would satisfy the concerns made.
- c) He welcomed new business in the area.
- d) That his main concerns were for local residents due to the opening hours, however he hoped that would be spared with the changes made to the application.

The Chairman invited all parties to make a closing submission. However, only Wajid Ali wished to make one closing statement and that was that he apologised for the misunderstanding with the timings.

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;

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**RESOLVED:-**

That the application by Sprinkles Dessert Lounge Limited for a premises licence in respect of Sprinkles Desserts, 75 Thornbridge Avenue, Birmingham B42 2PW, be granted as follows:

- the provision of late night refreshment, to operate as a delivery service only with the premises to be otherwise closed to customers, from 23:00 hours until 01:00 hours (Monday to Sunday)

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.

At the start of the meeting the director of the applicant company amended the application. Operation to 05:00 hours was no longer requested; instead the director confirmed that the amended late night refreshment application was for operation as a delivery service only. The shutter to the premises would be pulled down at 23:00 hours nightly. No customers would be entering the shop after 23:00 to purchase or collect late night refreshment orders themselves; orders would be placed and then a driver would deliver to the customer. Moreover, the delivery service would be only offered to 01:00 hours.

Members carefully considered the representations made by other persons and the two Responsible Authorities. All of those making representations confirmed that they found the application to be satisfactory now that it had been amended.

Environmental Health confirmed that online reviews showed that the business was popular and well-regarded, and that there was no objection to deliveries taking place to 01:00 hours. Licensing Enforcement were also content, as the premises would be closed with the shutters down from 23:00 hours. The local Ward Councillor approved the amended application and said that he felt that the premises had a good future with the amended hours.

The Sub Committee deliberated the operating schedule put forward by the applicant and the likely impact of the amended application, and concluded that by granting this application, the four licensing objectives contained in the Act will be properly promoted.

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 director of the applicant company, 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.

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**The meeting ended at 1038 hours.**