



West Midlands Police objection to premises licence 5026 variation –

Eden Manna Supermarket, 122 Francis Rd, Cotteridge. B30 3DX

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WITNESS STATEMENT

Crime Number:.....

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5BURN

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Statement of: Christopher Jones 55410

Age if under 18: over 18 (if over 18 insert 'over 18') Occupation: Licensing Officer

This statement (consisting of 4 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature: Date: 22nd July 2020Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

I am currently employed by West Midlands police as a licensing officer based at Lloyd House, Colemore Circus, Birmingham B4 6NQ with the central licensing team. This team has responsibility for all the licensed premises within the Birmingham City Council area. On Wednesday 10th June 2020 we received a variation application for a premises; Eden Manna Supermarket 122 Frances Road, Cotteridge, Birmingham B30 3DX. The application was submitted by a licensing agent on behalf of the applicant Mr Boniface Nyepango Lumumba. Mr Lumumba is the sole director of the current premises licence holding company and the DPS of the premises. The application was for the sale of alcohol between the hours 6am and midnight 7 days a week, changing from the current licensable hours of 5.30pm to midnight Monday to Friday and 11am to midnight on Saturday and Sunday.

I checked the current licence for the premises and noticed that the licensable hours and some of the operating conditions had been imposed by a licensing subcommittee on 19th March 2019 with the original licence for the premises being finally approved on 21st March 2019. As the application was requesting to remove committee imposed conditions and extend committee imposed licensable hours I asked the council for the decision notice from the hearing on 19th March 19. The Decision notice centred around children's exposure to alcohol due to the fact the premises is situated so close to primary school and stated:

– 'the head teacher of Cotteridge Primary School had concerns about the sale of alcohol before 17:30 hours, a time when primary aged children stayed on site. The head teacher described some parents present on site to collect their children were intoxicated, and feared the situation would increase in the summer months as a result of the off-licence in such close proximity to the school. Further the school was surrounded by a few local businesses whose retail nature was considered to be un-healthy for young children.'

I also noted that the premises original licence application were for the hours of 11am to midnight 7 days a week. The start time of 11am would not have impacted on children going to school, were this application would do so.

The applicant and agent are identical for the original application in 2019 and this variation.

West Midlands Police believe that this current variation application does not address the concerns raised by the

licensing subcommittee in March 19 albeit the applicant has offered the additional control measures in this application:

1. CCTV will be operational in all public areas including entrance and exits
2. External lighting will be on during operational hours
3. There will be no advertisements for alcohol outside the premises or in the windows facing out. All spirits will be kept behind the counter,

Scrutiny of the extra operating conditions reveals that:

1. The CCTV condition adds little to the condition regarding CCTV already on the licence.
2. External lighting adds nothing to negate the concerns around of children being exposed to alcohol or people under the influence of alcohol.
3. Adverts and spirits again does little to address the committee concerns and in fact the alcohol on display inside the premises could be seen from the public footpath and the spirits are already behind the counter.

I visited the premises on Friday 12th June at approximately 11.45hrs, with a colleague, as a result of the variation application being submitted, which is normal routine business when I am in receipt of an application especially when the premises are applying to extend their licensable hours and have committee imposed conditions attached to the licence.

As I entered the premises it was immediately noticeable that alcohol was openly on display behind the sales counter, in an open fridge and on shelving units. The alcohol could be seen through the show window from the footpath. In the premises were 2 males, 1 I now know to be Mr Lumumba and the other a shop worker. We both introduced ourselves to Mr Lumumba and showed our identification cards.

The premises I would describe as a small shop with two isles split down the middle by shelving units. The isle closest to the till was piled with alcohol. The middle shelving unit was four rows deep with alcohol displayed on the top two rows and cans of lager piled above that, approximately 3 cans high stacked on top of each other. The fridge unit had alcohol displayed in it and also had cans of lager piled on top of the fridge almost to the ceiling. The shelves behind the till point were full with bottles of spirits. In my opinion alcohol catered for approximately 40% of the stock that was on display within the premises.

I spoke with Mr Lumumba and ask if he was aware of his licence conditions around selling and displaying alcohol. He said he was and that he knew he was in breach of his licence by displaying alcohol outside his licensable hours. He stated he had no other choice as the shop was too small to store the amount of alcohol and it was impractical to keep removing all on and off display.

The longer I spoke with Mr Lumumba the more defensive he became stating that I was victimising him for trying to do the right thing, That the police had not received any complaints about the premises and I was being unfair.

While I was in the premises I became concerned that they may have been selling alcohol outside their licensable hours as the premises was seemingly exposing alcohol for sale outside these hours. Although there was signage displayed in the premises stating alcohol was only on sale between the hours granted on their licence.

I asked my colleague to view the CCTV. Mr Lumumba quickly stated that the CCTV could not be viewed as they system had rebooted and he no longer had the password. This again breached the premises operating condition around CCTV:

The images recorded by the CCTV system must be retained in unedited form for a period of not less than 31 days and will be downloaded and made available to any Responsible Authority upon request. The CCTV system will display the correct date and time on all recordings (taking account of GMT and BST). The premises licence holder will ensure a member of staff trained person in the use of and operation of the CCTV system will be present at the premises at all times when it is open to members of the public. This person will be able to fully operate the CCTV system and will be able to download any images requested by any Responsible Authority. The premises licence holder will maintain an incident recording system and will record any incidents occurring inside, or immediately outside the premises which they believe negatively impacts on any of the licensing objectives

Mr Lumumba was advised I would revisit on Monday 15th June to review the CCTV once he had sourced and engineer to sort the problem with the hard drive. I again went to the premises as arranged at approximately 1pm, with a colleague. Mr Lumumba was again at the premises with the same member of staff. The CCTV was now working and had been fixed on Saturday 13th June. Mr Lumumba was asked for the old hard drive so that we could if the premises had been selling alcohol outside their licensed hours. He stated that the CCTV engineer had taken the old hard drive with him. He was asked to obtain the hard drive or get a written report for the engineer as to why the hard drive could not be made available. Mr Lumumba was asked to provide this by Monday 22nd June.

On this visit the alcohol in the public area at the premises had been covered, with what looked like sheets. The signs were still visible advising customers of the premises licensable hours. This still does not satisfy the committee imposed condition of being '**covered by lockable blinds.**'

On Sunday 21st June Mr Lumumba sent an email stating:

'At your request, we have searched for a copy of the previous CCTV, it is however with regret that we write to inform you that we have not been able to locate the same. As previously stated, we have had to replace the CCTV in the store as we had been unable to review the old CCTV due to technical issues. Several attempts were made to contact the company who had install the CCTV in order to resolve this issue, however this was unsuccessful, and we were not able to get this resolved. Therefore, we have had to replace the CCTV and it appear the old one has been misplaced and we cannot locate it. However, should we have sight of this, we will of course revert back to you.'

West Midlands Police are disappointed that the old hard drive cannot be located as the request for it was only made 48 hours after the new system had been installed. Obviously this has done nothing to allay our concerns about the premises selling alcohol outside their licensable hours.

There are also concerns around GDPR, data protection, issues as the information stored on the old hard has seemingly been lost, misplaced or even just thrown away without a thought for the data stored on it.

I have checked the force's intelligence system and can confirm Mr Lumumba's assumption that I am unable to find any complaints about the premises from members of the public.

The system does show that the premises was a victim of a burglary on the 4th January 2020 which was reported by Mr Lumumba. Part of what was reported stolen was stated as £2000.00 worth of vodka with a total loss from the premises of £4000.00. The officer in charge of the case states that the premises did not supply any CCTV from

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within the store and only had one camera within it which was pointing at the wall and was therefore no evidential value. It is the belief that at the time of the burglary the premises did not have a full working, recording CCTV system as it would have been offered as evidence for such a substantial loss. The only CCTV provided by Mr Lumumba was actually from other premises within the vicinity of his shop.

The lack of CCTV would again be a breach of the premises licence operating conditions and does start to become a pattern when the premises are required to give the police any footage.

The on-going issues and concerns with the CCTV is far removed for the applicant's agent quote in the original licensing hearing as reported on 19th March 19 '**there would be good quality CCTV installed to improve crime prevention in the area**' This has failed to be the case on the two known occasions when CCTV has been requested by West Midlands Police.

West Midlands Police believe that the premises have not proven in their variation application that they have addressed or negated the concerns raised by the licensing subcommittee on 19th March 2020 as stated in their decision notice. They also have concerns of the ability of the premises licence holder and DPS to comply with the licensing conditions imposed on his licence as he was obviously trading in full knowledge he was in breach of them.

West Midlands Police would recommend that this licence variation is not granted.

CPS

[A large diagonal line is drawn across the page, likely indicating a signature or a mark.]

Signature:

CPS

Signature witnessed by:



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School where 'parents turn up drunk' opposes shop's booze licence in Birmingham

A primary school which claims it has problems with some parents turning up 'drunk' has objected to a nearby shop obtaining an alcohol licence.

There have been isolated incidents involving a small number of parents causing alcohol-fuelled disturbances and being abusive on the playground at **Cotteridge** Primary School, said headteacher Jonathan Leonard.

Child services have been involved in one severe case while another parent has been banned from the school grounds at Breedon Road.

Mr Leonard has pleaded with a **Birmingham City Council** licensing sub committee not to grant Eden Manna Supermarket an off-licence arguing it would put his 420 pupils - including 73 vulnerable students - at 'significant risk of harm'.



Eden Manna with Cotteridge Primary School in the background.

He added: "It has been said (by the applicant) there is no relation between the shop literally 20 metres across the road from our school and parents possibly drinking outside of the gates, putting children at risk of harm.

"I'm afraid I disagree completely. Because parents do stand outside the school, especially in the summer and they do drink

"The rights and wrongs of that are a big discussion but it's just a fact they do, and easy, quick access to alcohol to me is completely inappropriate in our setting."

Mr Leonard also pointed to the fact there were two vaping shops and a massage parlour on the same row of shops stating that an off-licence would add to the promotion of 'unhealthy lifestyles' to children 'every time they step out of school'.

He added: "Placing an off-licence within metres of a classroom to me, right under our nose as a school, completely undermines the messages we are trying to give to these children.

Eden Manna, which sells general convenience goods and African food, was also accused of being 'presumptuous' because it already has a bold yellow and red overhead sign which says 'Convenience store and off licence' although it was not suggested that they have actually sold alcohol before now

Anthony Gregson, Eden Manna's licensing representative, argued that the school's current issue with parents bore no relation to the shop while stating there would be good quality CCTV installed to improve crime prevention in the area.

Cllr Mary Locke (Lab, Stirchley) had backed the school's objection whilst also arguing the area has a 'terrible reputation' for crime and disorder which may or may not be alcohol-related.

She said she was 'pleased' the shop would not be able to sell alcohol before 5.30pm during the week.



BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE B

TUESDAY, 19 MARCH, 2019

EDEN MANNA SUPERMARKET, 122 FRANCES ROAD, COTTERIDGE
BIRMINGHAM, B30 3DX

That the application by Eden Manna Supermarkets Ltd for a premises licence in respect of Eden Manna Supermarket, 122 Frances Road, Cotteridge, Birmingham, B30 3DX be **granted** subject to the modified licensable hours and condition, in addition to those conditions as agreed with the licensing enforcement authority to: promote the prevention of crime and disorder, and the protection of children from harm objectives in the Act.

A.	Modification of hours – Alcohol	<p>The hours for the sale of alcohol (for consumption off the premises) shall apply as follows:</p> <p>17.30 hours until 12:00 midnight (Monday to Friday)</p> <p>11:00 hours until 12:00 midnight (Saturday to Sunday)</p>
B.	Opening hours	<p>The premises to remain open to the public as follows:</p> <p>06:00 hours until 12:00 midnight (Monday to Sunday)</p>

The reason for granting the modified application (a reduction in the licensable hours from 11:00 hours to 17:30 hours on Monday to Friday) as submitted during the hearing by the applicant's agent in response to a comment from the local Councillor for Stirchley, was in light of the totality of issues presented by other persons.

Members noted the head teacher of Cotteridge Primary School had concerns about the sale of alcohol before 17:30 hours, a time when primary aged children stayed on site. The head teacher described some parents present on site to collect their children were intoxicated, and feared the situation would increase in the summer months as a result of the off-licence in such close proximity to the school. Further the school was surrounded by a few local businesses whose retail nature was considered to be un-healthy for young children.

The Sub Committee weighed up the local Councillor's concerns and fears based on the supporting crime maps and crime figures for the neighbourhood in her written representation, but found none of these could be substantiated. There were no recordings of alcohol related crime in connection with licensed premises or as an influencing factor in the recorded offences for Members to consider and assess. The local Councillor did however indicate a variation of hours could be acceptable.

Members therefore determined in light of the applicant's agreed conditions with a responsible authority, Licensing Enforcement, together with the offer of reduced licensable hours would overcome the concerns of the head teacher, and enhance the protection of children from harm licensing objective.

However, one unforeseen consequence of the reduced licensable hours on offer required the attention of Members. The Sub Committee were mindful of the alcohol being on display from when the premises are open i.e. 06:00 hours when not authorised for sale, until later in the day from 17:30pm to 12:00 midnight, Monday to Friday. Members determined it would be inappropriate for all alcohol within the trading area to be on view, and as such felt the following condition is added to the grant of the licence to prevent access to the alcohol by customers.

C. Display of Alcohol

The licence holder shall ensure that at times when the premises are open but alcohol is not for sale that alcohol is not on view and is covered by lockable blinds or shutters

The Sub-Committee considers the conditions imposed to be appropriate, reasonable and proportionate to address 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 information in the application, the written representations received and the submissions made at the hearing by the applicant and agent 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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Customer Notice

The sale of alcohol is restricted to the
hours of:

Mon - Fri: 17.30 - 00.00

Sat - Sun: 11.00 - 00.00

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Dear PC 4075 Rohoman,

Re: Eden Manna Supermarket Limited, 122 Frances Road, Birmingham, B30 3DX

At your request, we have searched for a copy of the previous CCTV, it is however with regret that we write to inform you that we have not been able to locate the same.

As previously stated, we have had to replace the CCTV in the store as we had been unable to review the old CCTV due to technical issues. Several attempts were made to contact the company who had install the CCTV in order to resolve this issue, however this was unsuccessful, and we were not able to get this resolved. Therefore, we have had to replace the CCTV and it appear the old one has been misplaced and we cannot locate it. However, should we have sight of this, we will of course revert back to you.

Yours sincerely

Boniface Lumumba

Director

Crime Report

Event Details

Crime Number	20BW/3315L/20
Offence	BURGLARY BUSINESS AND COMMUNITY
Date Record Created	04/01/2020
Date Between	04/01/2020 and 04/01/2020
Time Between	13:10 13:30

Location Details

Offence Location	122 EDEN MANNA SUPERMARKET LTD FRANCES ROAD BIRMINGHAM B30 3DX
District	COTTERIDGE
Location Description	SUPERMARKET

MO Notes

LOG 1470 4/1/20 - UNKNOWN PERSONS HAVE THROWN A PIECE OF MASONERY THROUGH THE BOTTOM PANEL OF DOUBLE GLAZED DOOR. ENTRY GAINED, ITS TAKEN FROM STOCK
DISPLAY WHICH INCLUDED £2000 OF VODKA AND £2000 OF CIGARETTES. OFFENDERS MADE GOOD ESCAPE EGRESS AS ENTRY.

Person 1					
Role	Reference Nr	Surname	Forename(s)	DOB	Age at Crime
PERSON REPORTING OFFENCE	View Details	LUMUMBA	BONIFACE		

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OFFICIAL – (when complete)

MG11

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

Crime No. URN

Statement of Geoff Williams

Age if under 18 ☐ '18 (if over 18 insert "over 18")

Occupation Police Constable 4372

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature  (witness)

Date 25/06/20

Tick if witness evidence is visually recorded ☐ (supply witness details on rear)


I am making this statement in relation to the investigation of crime report 20BW/3315L/20.

The victim in this report is Boniface Lumumba who reported a burglary at Eden Manna Supermarket on 04/01/20.

This report was not supplied with any CCTV from within the shop.

During my investigation, I spoke with the victim over the phone, in particular regarding CCTV. The victim at no point made me aware of any footage from within the shop premises. The only CCTV I had from this investigation were from other nearby locations and were recordings made on the victims mobile phone playing the footage from a screen recording.

Having read the investigation portal prior to myself handling the report, the attending officers state that there is no CCTV covering the offence, but there is a single camera inside the shop that exists but is pointing at a wall and is of no use.

Signature 

Signature witnessed by

03/2016

OFFICIAL – (when complete)