

BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE B 2 JUNE 2015
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**MINUTES OF A MEETING OF
LICENSING SUB COMMITTEE B
HELD ON TUESDAY 2 JUNE 2015
AT 1000 HOURS IN COMMITTEE
ROOM 1, COUNCIL HOUSE,
BIRMINGHAM**

PRESENT: - Councillor Lynda Clinton in the Chair

Councillors Nawaz Ali and Gareth Moore

ALSO PRESENT

Nicola Stansbie, Licensing Section
Sanjeev Bhopal, Committee Lawyer
Gwin Pountney, Committee Manager

NOTICE OF RECORDING

1/020615

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

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

2/020615

There were no apologies or nominee members.

**COSTCUTTER, 46-52 KITSLAND ROAD, SHARD END, BIRMINGHAM, B34
7NA – LICENSING ACT 2003 – PREMISES LICENCE GRANT**

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

(See document No. 1)

The following persons attended the meeting.

On behalf of the applicant

Mr M Farooq – Applicant

Mr S Kanafthi – Applicant's Representative

Making Representations in respect of the application

Councillor John Cotton – Ward Councillor

Councillor Marje Bridle – Ward Councillor

Following introductions by the Chairman, the main points of the report were outlined by Nicola Stansbie, Licensing Section and Members were advised that West Midlands Police had withdrawn their representation.

Mr Kanafthi, in presenting the case on behalf of the applicant and in response to questions from Members, made the following points:-

- a) Mr Farooq had been in the retail business for 15 years and had brought these premises to run as a family business. He had tackled anti-social behaviour (ASB) in the past very effectively through strong management and banning persistent offenders.
- b) The premises, previously a convenience store would now be run differently, with alcohol sales forming 15-20% of the product range.
- c) Mr Farooq had undertaken steps in order to maintain the licensing objectives including: installing CCTV (to Police standards) inside the premise with another 2 cameras to be fitted outside and undertaking all required training.
- d) He had worked with the police to provide all the documents requested from him and they had subsequently withdrawn their representation. Furthermore, there were no other representations from responsible authorities.
- e) That the problems regarding ASB were linked to the road – not the store. Mr Farooq had spoken to a couple of residents who were happy for the licence to be granted provided the premises and problems with ASB were handled effectively.
- f) He had no links with the previous owner and would ensure that customers or young people did not loiter outside the premises. Furthermore he was happy to work with the Ward Councillors to allay their fears and therefore requested that the licence be granted.
- g) That Mr Farooq had worked in his father's shop until it had been sold and had worked in both licensed and unlicensed premises.
- h) There was an off-licence sales store 3 doors away from the premises which was open from 10.00am to 11.00pm at night.
- i) The licence of the previous owner had been revoked due to illicit products on the premises. Mr Farooq however would buy all of his products from registered retailers.

- j) That he would like to sell alcohol in order that his customers could get all of their goods from one premises – however he would still run the premises if a licence was not granted, without alcohol sales.
- k) He would train all of his staff himself and also send them for any external training required.

Councillor Cotton and Bridle, made the following points in respect of their representation and in response to Members' questions:-

- a) That they had real concerns for the local community regarding the granting of this licence as the area was a focus for anti-social behaviour where people lingered to drink, there was a clear link between the shop and ASB and it was a known police hot spot – in fact the worst in the West Midlands.
- b) That in the January Ward Committee there had been over 50 residents who had attended due to their concerns regarding ASB and drunken customers in this area. This had been followed up by 2 further meetings at Shard End Police station with similar concerns being expressed with a further meeting planned for 18 June.
- c) That the revocation of the previous owner's licence had improved the situation in the area, showing a causal link between the two and the police evidence had also shown a decline in ASB during this period.
- d) They had concerns that some staff employed by the previous owner, whose licence had been revoked, would remain employed at the premises.
- e) That Mr Farooq, as he lived 5 miles from the area, had an absence of local knowledge and the fact that the problems within this area were clearly of issue to the local residents.
- f) A resumption of alcohol sales would lead to a resumption of the ASB problems.
- g) That there were no other licensed premises within the immediate area.
- h) The area was primarily residential with a primary school behind the premises with a history of crime and disorder linked to alcohol sales. This had required increased police patrols, the deployment of camera technology and an integrated strategy working with partners to address ASB.

In summing up, Mr Kanafthi stressed that the premises would be managed by a new owner in the proper manner and working alongside the Police, Councillors and local residents to improve matters regarding ASB. Furthermore the store would not be able to survive commercially without the addition of alcohol sales and therefore it was requested that the licence be granted.

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In summing up Councillor Cotton welcomed the commitment by the applicant to engage with local Councillors and the Police to improve ASB problems within the area and would be happy for this to happen if the licence was granted.

At 1052 hours the Chairman requested all present, with the exception of Members, the Committee Lawyer and the Committee Managers to withdraw from the meeting.

At 1202 hours, after an adjournment, all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

3/020615

RESOLVED:-

That the application by Mohammed Farooq, for a premises licence in respect of Costcutter, 46-52 Kitsland Road, Shard End, Birmingham, B34 7NA be granted subject to the following conditions, to promote the prevention of public nuisance objective in the Act:

A.	Signage	The licensee shall erect prominent, clear and legible signage inside and outside the premises:- a) requesting patrons to be considerate of local residents when leaving the premises b) advising patrons of no loitering outside the premises
B.	CCTV	CCTV cameras shall be installed (both inside and outside) and operated at the premises with 30 day digital recording and be made available to responsible authorities upon request.
C.	(Condition modified at part a) of the operating schedule)	The shop management will work closely with the local Police, elected members and local action groups to reduce any crime and disorder occurring immediately outside the premises.
D.	Outside drinking	The licensee shall ensure that there is no consumption of alcohol immediately outside the premises.
E.	Sale of Alcohol (Signs)	The licensee shall display a sign(s) on the premises indicating:- a) that it is an offence to sell alcohol to individuals aged under 18 b) that it is an offence to buy or attempt to buy alcohol on behalf of an individual aged under 18

The Sub-Committee's reasons for imposing these conditions are due to the submissions made by the applicant and other persons regarding the history of the previous licensee and location of the premises.

It was noted that there was crime and disorder associated with the previous licence

holder and that following revocation of the licence after review, alcohol continued to be sold until the appeal was withdrawn in May 2015.

Against this background, the Sub Committee were made aware by other persons that there was an improvement in the levels of anti-social behaviour in the location where the shop is situated. On the balance of probabilities it was concluded that whilst there would be low levels of anti-social behaviour in the area, beyond the immediate area surrounding the premises, these would be matters for the personal responsibility of individuals under the law who engage in Anti-Social Behaviour (ASB).

The Sub Committee sought to give the benefit of the doubt to the applicant in view of his commitment to work with the local community in reducing the occurrence of ASB.

The Sub-Committee carefully considered the operating schedule put forward by the applicant and the likely impact of the application but did not accept that there was evidence of a significant public nuisance arising from the proposed operation of the premises.

However the concerns of the other persons were taken into account by imposing suitable conditions that would allay their apprehension of an increase in ASB arising in connection with the proposed operation of the premises.

The Sub-Committee considers the conditions imposed to be appropriate, reasonable and proportionate to address concerns raised.

In addition to the above conditions, those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued.

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, their representative 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.

Councillor Moore requested that it be recorded that he had voted against this decision.

OTHER URGENT BUSINESS

04/020615 The Chair was of the opinion that this item could be considered as a matter of urgency in view of the need to determine the application.

**RISA, 259-262 BROAD STREET, QUAYSIDE TOWER, BIRMINGHAM B1 2HF –
LICENSING ACT AS AMENDED BY THE VIOLENT CRIME REDUCTION ACT
2006 – CONSIDERATION OF INTERIM STEPS IMPOSED ON 29 MAY 2015**

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

(See document No. 2)

The following persons attended the meeting.

On behalf of the applicant

Mr S Kay – CFO Licence Holder
Mr C Lamberts – Operations Manager
Mr A Woods – Legal Representative

Making Representations in respect of the application

Sgt D McGrory – West Midlands Police
PC V Demeuth – West Midlands Police

Following introductions by the Chairman, the main points of the report were outlined by Nicola Stansbie, Licensing Section.

At this point Sgt McGrory requested that as there was an ongoing criminal investigation regarding this matter that the initial part of the meeting be conducted in private.

EXCLUSION OF THE PUBLIC

5/020615 **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.

At this point some police evidence was presented in private.

At this stage in the meeting having heard some evidence in private the public were re-admitted to the meeting

Mr Potts, made the following points in respect of his presentation and in response to questions from Members of the Sub-Committee:-

- a) A presentation of documents containing the information requested at the Summary Review Hearing on Friday 29 May

(See document No. 3)

- b) That Intertain had until this point and at 25 other venues across the country

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operated within the licensing objectives.

- c) That the Licence Holder and Mr Potts had reviewed the footage of events on Thursday 28 May and met with Sgt McGrory on Monday 1 June to make some decisions and discuss suggestions for the way forward in partnership with the Police.
- d) That the Licence Holder was requesting interim measures rather than a suspension of the licence and was in total agreement with the Police that the incident that had occurred was completely unacceptable.
- e) Mr Potts then went through the gallery of photographs showing and chronicling the events of 28 May, which had occurred after the DPS had left for the evening at 01.00am. He advised the Sub-Committee that all of the staff involved had been suspended on 29 May as well as the Door Company and would not be allowed to work on the premises again.
- f) He stressed to Members however that for the first 7 minutes of the event had been managed well and then following a 'spark' had transgressed into a manner that was totally inappropriate.
- g) Mr Potts then proceeded to go through the documentation pack he had presented highlighting: policy and management changes at the premises since a review in December 2014, checks on staff, door supervisor conditions, a timeline of the incidents on 28 May, photographs of high-viz wear worn by door staff containing body cameras, a printout from the ID scanner on 28 May, profiles of door supervisors, training record, suspension documents and agreed licence conditions following the premises review in 2014.
- h) That Mr Kay and Mr Lambert had themselves carried out random checks on the premises on Saturday nights to ensure that the conditions were being adhered to.
- i) That the DPS, Mr Lambert and Mr Potts had met with Sgt Richards at Steelhouse Lane Police station on 15 May 2015 who had informed them that he was happy that crime had significantly reduced in Bar Risa since December 2014. From this point until May 2015 there had been no negative feedback from the Police.
- j) The company had a commitment to Broad Street and had been there since 2002 and that Mr Lambert would be investing a further £800,000 in improving the premises.
- k) That the company proposed some interim conditions to be put into place until the full review 31/2 weeks later:
 - Termination of the contract with the door company
 - No door personnel on duty on 28 May to work at the premises
 - The use of a new door company - Regency
 - To open from 7.00pm on Friday 5 June
 - The occupancy to graduate from 1200 people on 5 and 6 June to 2/3rds capacity on 12 and 13 June and to full capacity on 20 and 21 June.
 - Suspension of the Assistant Manager

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- Replacement of the DPS by a new employee who had experience of working in challenging environments.
- l) That all customers to Bar Risa were searched by hand and using a wand in a thorough process – therefore the knuckleduster in use had not been on the male upon his initial entry to Bar Risa.
- m) That the events of 28 May were ‘out of character’ for the Asst Manager who had been suspended as a consequence – however this would be something that all staff would be made aware of and in addition a new DPS and Asst Manager would be put in place.

In summing up, Sgt McGrory felt that although following the premise review in December 2014 the Club had worked well the events of 28 May leading to a summary review and a suspension of the licence on 29 May had been warranted. The actions of the staff had been totally inappropriate and had shown a systemic failure within the premises management. The Police fully supported the raft of proposal suggested by the Licence Holder’s representative and would be happy for them to be implemented for the 3 weeks prior to the full review to measure their effectiveness. Furthermore the Police would be intrusively supervising the premises during this period and ensure that public safety was being put first under the new structure and would work with the premises to achieve this.

In summing up Mr Potts stressed that the Intertain would welcome their proposals being adopted as conditions as part of interim steps until the full review. This would give them an opportunity to turn things around and implement wholesale change to make the premises safe and open on a graduated basis.

At 1426 hours the Chairman requested all present, with the exception of Members, the Committee Lawyer and the Committee Managers to withdraw from the meeting.

After an adjournment, all parties were recalled to the meeting at 1510 hours and the decision of the Sub-Committee was announced as follows:-

7/020615

RESOLVED:-

That, having considered the representations made on behalf of Intertain Limited, the premises licence holder for Risa, 259 – 262 Broad Street, Quayside Tower, Birmingham, B1 2HF in respect of the interim steps imposed on 29th May 2015, this Sub-Committee hereby determines that the decision of 29 May be withdrawn and replaced instead with the following conditions on the premises licence pending review of the licence to be held within 28 days of receiving the Chief Officer of Police’s application, that:

- The Door Company contract remains terminated
- Any previous door personnel of the terminated Door Company contract will not work at the premises
- The premises shall open from 7pm on Friday 5th June 2015 with a reduced occupancy of 1200 that will increase gradually to two thirds of the maximum capacity on Friday 12th and Saturday 13 June, and then from Friday 19th June to full capacity. However, this shall be preceded by a three day period to

enable the new Door Company (Regency) to embed and train their staff at Bar Risa

- The current Designated Premises Supervisor ('DPS') is removed from the licence, and a new proposed DPS is vetted by West Midlands Police prior to appointment.

The Sub-Committee carefully considered the representations made on behalf of the premises licence holder in respect of the proposed conditions that were volunteered and agreed by the West Midlands Police, and felt that the wholesale change in the structure of management and graduated return to occupancy would promote the licensing objectives in question.

Further it would give the premises licence holder an opportunity to demonstrate that they could comply with and promote the conditions as a safe and responsible licensee.

With regard to the incident that took place outside the premises on 29th May 2015, it was not disputed by either party. The Sub Committee noted comments from the premises licence holder that the Assistant Manager had acted out of character and this was therefore an isolated incident, notwithstanding the fact that the Assistant Manager had received training and yet failed to notify the police of this incident and comply with conditions of the licence, thereby bringing into question the competence of management at the premises.

The Sub-Committee therefore considers that the removal of key management personnel as specified by the premises licence holder and the appointment of a new Door Company and DPS is necessary for the promotion of the licensing objectives.

In reaching this decision, the Sub-Committee has given due consideration to the guidance issued by the Home Office in relation to expedited and summary licence reviews, the certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003 and the application for review.

All parties are advised that there is no right of appeal to a magistrates' court against the decision of the Licensing Authority at this stage.

EXCLUSION OF THE PUBLIC

8/020615

RESOLVED:-

That in view of the nature of the business to be transacted, which includes exempt information of the category indicated, the public be now excluded from the meeting: -

(Paragraphs 1 and 7)

The meeting ended at 1515 hours.

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CHAIRMAN