



BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE - C

WEDNESDAY 17 NOVEMBER 2021

Lucky Food and Wine, 58 Jerome Road, Sutton Coldfield B72 1SR

That, having reviewed the premises licence held under the Licensing Act 2003 by Sanmuganathan Rusikumar, in respect of Lucky Food and Wine, 58 Jerome Road, Sutton Coldfield B72 1SR, upon the application of West Midlands Police, this Sub-Committee hereby determines the licence be suspended for a period of fourteen days in order that Mr Rusikumar should take the opportunity to review all practices and procedures, refresh training for all staff, and thereafter resume trading in a manner which is capable of upholding the licensing objectives in the Act.

The Sub-Committee's reasons for suspending the licence are due to concerns raised by Licensing Enforcement relating to compliance with conditions – specifically the failure to retain CCTV recordings for the required number of consecutive days, and failure to maintain a refusals register at the time of inspection. The Sub-Committee considered these matters to be at the middle of the scale in terms of failure.

Submissions were also made by West Midlands Police relating to suspicions about underage sales; however, the Sub-Committee did not find that the evidence presented was sufficient for it to make any determination on the issue of possible underage sales. It was not comparable with the usual standard of 'underage sale' evidence brought before the Sub-Committee, namely test purchases witnessed by Trading Standards officers.

Counsel for the licence holder confirmed that it was not accepted that any underage sales at all had been made, as the shop had a Challenge 25 policy in force. Moreover the Sub-Committee noted the numerous letters of support for the licence holder, submitted by local residents. One such resident even attended the meeting in person, to confirm her support for the shop directly to the Sub-Committee. This was highly unusual in any Review hearing, and Members considered that these representations showed that the shop was a valued community resource. It was striking that some of the letters confirmed in writing that the shop did in fact verify customers' ages when selling alcohol by retail.

Accordingly the Sub-Committee felt quite unable to follow the Police recommendation to revoke the licence, and instead agreed with counsel for the licence holder that the matter could be dealt with by way of a suspension of the licence. The Members considered that 14 days would be sufficient for the licence holder to review and refresh all aspects of his operating style, such that he could reopen again as a 'fresh start' for the shop.

The Sub-Committee gave consideration as to whether it should modify the conditions of the licence or remove the Designated Premises Supervisor, but was not satisfied, given the limited evidence submitted, that this was necessary.

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 counsel for the premises licence holder 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.

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 appeal is determined.