

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE B 9 AUGUST 2016
--

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY, 9 AUGUST 2016 AT 1000 HOURS, IN COMMITTEE ROOM 1, COUNCIL HOUSE, BIRMINGHAM

PRESENT: - Councillor Barbara Dring in the Chair;

Councillors Nawaz Ali and Bob Beauchamp.

ALSO PRESENT

David Kennedy – Licensing Section
Joanne Swampillai – Legal Services
Paul Holden – Committee Services

NOTICE OF RECORDING

1/090816 The meeting was advised that members of the press/public may record and take photographs except where there were confidential or exempt items.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

2/090816 It was noted that Councillor Barbara Dring was attending on behalf of Councillor Lynda Clinton and that Councillor Bob Beauchamp was attending on behalf of Councillor Gareth Moore.

MINUTES

3/090816 The public section of the Minutes of the meeting held on 5 July 2016 was noted.

LICENSING ACT 2003 PREMISES LICENCE GRANT – MCCAWLEY’S, 52 HIGH STREET, KINGS HEATH, BIRMINGHAM, B14 7JZ

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

(See document No. 1)

Licensing Sub-Committee B – 9 August 2016

At 1012 hours David Kennedy, Licensing Section reported that the applicant was not present and the applicant's agent who he had spoken to over the phone was unable to contact his client. The Chair apologised to Councillor Clare Spencer, who was present to make representations, that the hearing could not therefore go ahead.

4/090816 **RESOLVED:-**

That as neither the applicant nor his agent had given advance notification to the Sub-Committee that they did not intend to attend:-

- (a) The application by Mr Didier Rolland Nana Tchounga for a premises licence in respect of McCawly's, 52 High Street, Kings Heath, Birmingham, B14 7JZ be adjourned in the public interest, in accordance with Regulation 20(2)(a) of the Licensing Act 2003 (Hearings) Regulations 2005, to a date to be notified;
- (b) the Principal Licensing Officer be directed to seek recovery of the costs associated with the hearing due to the applicant and / or their agents failure to notify the Licensing Authority of their inability to attend the hearing resulting in the need to adjourn the hearing to an alternative date.

EXCLUSION OF THE PUBLIC

5/090816 **RESOLVED**

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

Minutes – Exempt Paragraphs 1 and 7

MINUTES

6/090816 **RESOLVED**

That the private section of the Minutes of the meeting held on 5 July 2016 be noted and that the Minutes as a whole be confirmed and signed.

(At this juncture the meeting was adjourned and later reconvened at 1153 hours in public session)

**LICENSING ACT 2003 PREMISES LICENCE GRANT – WITTON OFF
LICENCE AND CONVENIENCE STORE, 169 WITTON ROAD, ASTON,
BIRMINGHAM, B6 6JR**

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

(See document No. 2)

Members were advised that no one was present to report in support of the written representations objecting to the application that were included amongst the papers.

On behalf of the Applicant

Mikael Levi Braddy – Designated Premises Supervisor (DPS)
Carol Hamilton – Investor in the Business

The Chairman introduced the Members and officers present and explained the hearing procedure.

David Kennedy, Licensing Section, outlined the main points of the report and explained that the DPS and investor could refer to additional supporting documents that they had brought to the meeting but could not circulate them because that would need the agreement of all parties.

The following were amongst the points made by the applicant and investor:-

1. Members were advised that they had made the application for a premises licence in response to demand from local residents.
2. A 24-hour premises licence had been applied for to see whether any objections would be received.
3. In view of the receipt of objections they had hoped to resolve these by mutual agreement and though there had been a telephone conversation, the individual had not turned-up to a meeting that was arranged.
4. The DPS and investor offered to reduce their opening hours and hours for the sale of alcohol to the following: Sunday to Thursday - 8am to 11pm; Friday and Saturday: 8am to 12 midnight.

In response to questions from Members of the Sub-Committee, the following were amongst points made by the DPS / investor:-

1. The investor explained that she did have previous experience of running a store (though not on a 24-hour basis) and that they were expanding their range of products at 169 Witton Road, which was currently run as a general convenience store.

Licensing Sub-Committee B – 9 August 2016

2. It was confirmed that they were aware of the 4 licensing objectives and understood that there was a requirement to implement and operate a Challenge 25 age verification policy to prevent the sale or supply of alcohol to persons under 18 years of age. Furthermore, Members were advised that an Electronic Point of Sale (EPOS) till had been ordered.
3. The investor commented that people after they made purchases usually left the area. She considered that people loitering outside the premises was not a major issue. It was also confirmed that notices would be prominently displayed at the exit from the premises requesting that customers leave the premises quietly.
4. Alcoholic drinks such as spirits would be stored behind the counter and other alcoholic drinks kept at the front - where there was also a fridge located.
5. Up-to-date CCTV equipment had recently been installed.
6. Members were advised that except for during the mornings there would always be two members of staff present.
7. The investor confirmed that they would call the police if faced with any criminal activity.

In summing-up, the applicant / investor informed the meeting that other traders they'd had conversations with had welcomed the proposals as it was hoped the store would generate more trade in the area and therefore benefit them as well. Furthermore, it was pointed out that there were a lot of children in their family and emphasised that they would ensure that rules and regulations were adhered to in respect of protecting children from harm. Members were advised that they cared about the community and that they would therefore take steps to ensure that the presence of an off licence and convenience store at the location did not cause a public nuisance.

At 1220 hours the Sub-Committee adjourned and the Chairman requested that all present, with the exception of the Members, the Committee Lawyer and the Committee Manager, withdraw from the meeting.

All parties were recalled to the meeting at 1247 hours and the decision of the Sub-Committee was announced as follows:-

7/090816

RESOLVED:-

That the application by Witton Off Licence & Convenience Store Ltd for a premises licence in respect of Witton Off Licence & Convenience Store, 169 Witton Road, Aston, Birmingham, B6 6JR be granted subject to the following conditions to promote the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm objectives in the Act:

Licensing Sub-Committee B – 9 August 2016

1. Those conditions agreed between the Licensing Enforcement Team of Birmingham City Council and the applicant, as shown in Appendix 4 of the Committee papers;
2. Given that the applicant volunteered at the hearing to modify the scope of the application by reducing the hours for the sale of alcohol, and by reducing the opening hours, accordingly
 - a. The hours for the supply of alcohol shall apply as follows:
 - Sunday to Thursday inclusive: from 8am to 11pm
 - Friday and Saturday: from 8am to 12 midnight
 - b. The premises to remain open to the public as follows:
 - Sunday to Thursday inclusive: from 8am to 11pm
 - Friday and Saturday: from 8am to 12 midnight

The Sub-Committee's reasons for imposing these agreed / volunteered conditions are due to the submissions made by the applicant at the hearing regarding the management of and impact of the proposed operation of the premises.

The Sub-Committee carefully considered the modified 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, risk to crime and disorder or risk to children arising from the proposed operation of the premises. However the concerns of other persons were taken into account by imposing suitable conditions that would allay their apprehension about the potential for an increase in crime and disorder, risk of significant public nuisance, and / or exposure of children to increased risk of harm arising from 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.

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.

Licensing Sub-Committee B – 9 August 2016

The meeting ended at 1250 hours.

.....

CHAIRMAN