

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE B

TUESDAY, 28 MAY 2019 AT 09:30 HOURS
IN ELLEN PINSENT ROOM, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

Please note a short break will be taken approximately 90 minutes from the start of the meeting and a 30 minute break will be taken at 1300 hours.

A G E N D A

1 NOTICE OF RECORDING

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

2 DECLARATIONS OF INTERESTS

Members are reminded that they must declare all relevant 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.

3 APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

4 APPOINTMENT OF SUB-COMMITTEE

To note the appointment by the City Council of the Committee and Chairman for the Municipal Year 2019/20.

Members of the Sub-Committee may nominate another member of their respective Party Group on the Licensing and Public Protection Committee to attend in their place.

Any Member nominated must have had formal training as set out in Paragraph 6.1 of the Licensing Committee Code of Practice for Councillors and Officers.

5 MINUTES

To confirm and sign the Minutes of the meeting held on 19 March 2019.

To confirm and sign the Minutes of the meeting held on 26 March 2019.

To confirm and sign the Minutes of the meeting held on 11 April 2019.

To confirm and sign the Minutes of the meeting held on 23 April 2019.

6 DELEGATIONS TO SUB-COMMITTEE

To note the delegations to the Sub-Committee as follows:-

To determine matters relating to the Licensing Act 2003, the Gambling Act 2005, hackney carriage licences private hire licences and such business as may be referred by the Assistant Director of Regulation and Enforcement.

7 OTHER URGENT BUSINESS

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

PRIVATE AGENDA

1 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, TOWN POLICE CLAUSES ACT 1847, PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS LICENSES

Report of the Assistant Director of Regulation and Enforcement.

(Paragraphs 1 & 7)

2 OTHER URGENT BUSINESS (EXEMPT INFORMATION)

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

BIRMINGHAM CITY COUNCIL

LICENSING SUB- COMMITTEE B TUESDAY, 19 MARCH, 2019

**MINUTES OF A MEETING OF THE LICENSING
SUB-COMMITTEE A HELD ON 19 MARCH,
2019 AT 0930 HOURS, IN ELLEN PINSENT ROOM,
COUNCIL HOUSE, BIRMINGHAM, B1 1BB**

PRESENT: - Councillor Nagina Kauser in the Chair.

Councillors Adam Higgs and Mike Sharpe

ALSO PRESENT

Shaid Yasser, Licensing Section
Parminder Bhomra, Committee Lawyer
Louisa Nisbett, Committee Manager

NOTICE OF RECORDING

1/190319 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

DECLARATION OF INTERESTS

2/190319 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 to be recorded in the minutes of the meeting.

APOLOGIES

3/190319 There were no apologies received.

MINUTES

4/190319 The public section of the Minutes of the meeting on 12 February, 2019, having been previously circulated were confirmed and signed by the Chairman.

**LICENSING ACT 2003 PREMISES LICENCE GRANT EDEN MANNA
SUPERMARKET, 122 FRANCES ROAD, COTTERIDGE,
BIRMINGHAM B30 3DX**

5/190319 The following report of the Director of Regulation and Enforcement was submitted:-

(See document no. 1)

On behalf of the Applicant

Boniface Lumumba, Applicant
Anthony Gregson – Agent
Stacey Lukika - Partner

Those Making Representations

Jonathan Leonard – Headteacher Cotteridge Primary School
Councillor Mary Locke

Following introductions by the Chairman, the main points of the report were outlined by Shaid Yasser, Licensing Section.

Anthony Gregson made the following points with regards to the application and in response to questions from Members:-

1. With regard to the representations from the school and the protection of children from harm by exposing them to a unhealthy lifestyle, there would be no advertisements for alcohol on display. All alcohol would be kept behind the counter and supervised.
2. Any alcohol sold would be consumed off the premises, therefore people could not drink alcohol at the premises.
3. There would be an over 25 policy in place and notices displayed stating no ID no sale. Children had been taken into consideration when addressing the licensing conditions.
4. With regard to crime, CCTV would be in place and made available to the police as requested. This added to the security in the area.
5. No alcohol could be consumed on the premises and any groups of people outside the premises will be asked to move on and the police called if necessary. Records of any incidents will be kept in the incident book. They did not see there was any relation to crime and selling alcohol that was consumed off the premises.
6. The shop currently sold a variety of products from sweets to African foods, bread and milk etc that was sold in a normal corner shop and convenient

store. The business was new to the area and they looked to sell alcohol as a bonus. The business partner had a few year's experience of selling alcohol in a shop

7. The applicant was a personal licence holder and understood the 4 licensing objectives. They did not think he should be put under pressure to name them however the applicant named the protection of children as one of the objectives.
8. In response to a question the staff would consist of the applicant and business partner. Any appropriate training will be undertaken by staff. The applicant will be the DPS. Training records will be kept and logs of refusals to sell alcohol. The business partner will keep records of alcohol sold in his absence.
9. The stock room was at the back of the premises. CCTV covered behind the counter and entrance. There was also cameras near the stock room and covering the back of the premises. The plans were attached showing the locations in the premises.
10. The business had been running since November. They lived 20 minutes away from the area. They had experience of dealing with anti-social behaviour.
11. The entrance of the school was not opposite the shop. There was another school near the shop. The pupils from Cotteridge School did not necessarily pass the shop.
12. They had emailed the school and asked them to contact them to discuss the application, however they did not respond.

In making representations against the application Jonathan Leonard, Headteacher, Cotteridge School made the following points with regards to the application and in response to questions from Members:-

1. With regard to the protection of children from harm, if the licence was permitted it would place children at significant risk of harm. There were 420 children up to 11 years old, 70 of which were vulnerable. The safeguarding of the vulnerable children was paramount.
2. Last Autumn 2 children from the school had been taken into care by BCC as a direct result of alcoholic parents. Another parent had been banned from being on the school site due to presenting on the site under the influence of alcohol
3. Parents will not be able to make their way to school without the distraction of alcohol. Parents would be at risk of drinking outside the school owing to easy access to alcohol.
4. With regard to safeguarding children in the playground and the messages given. They followed programmes linked to healthy living and lifestyles, substance and alcohol abuse. Placing an off licence within metres of the classrooms undermined the messages given to the children.

5. He disagreed that the entrance was not opposite the shop. There were signs on the windows saying “off-licence” metres away from the year one window.
6. Jonathan Leonard sought to introduce new evidence in the form of pictures of the “off licence” sign however following legal advice, the introduction of new evidence was objected to by the applicant.
7. He continued that the sign could be visibly seen from outside the school. He felt it was inappropriate for the Committee to approve a licence for alcohol to sold in close proximity to a BCC school especially with parents presenting on the school site whilst intoxicated.
8. The nature of the retail sector businesses opposite the school were considered to be unhealthy for young children. These included a vaping shop and a massage parlour. He will be objecting to the renewal of their licence when the licences were due.
9. The Committee was requested to at least not agree to a licence for alcohol until after 1730 hours when the children were no longer on site. It was noted by the Sub-Committee that there was no evidence that parents had made any objections.
10. Jonathan Leonard was disappointed that neither West Midlands Police or Licensing Enforcement had made an objection to the licence.

In making representations against the application Councillor Mary Locke made the following points with regards to the application and in response to questions from Members:-

1. Councillor Mary Locke was advised that a comment that WMP had provided feedback to her about the licence when it was too late would not be taken into account.
2. She was a resident in Stirchley and the shop was in a residential area.
3. The children from the school were vulnerable. She was worried about the opening hours of the shop from 1100 hours. Children leaving the school could see people who were intoxicated.
4. Councillor Mary Locke made reference to the CCTV and added that there was significant number of crimes in the area listing burglary, assault, vehicle crimes and public disorder as crimes that could be as a consequence of alcohol being available.
5. Councillor Mary Locke feared for the safety and wellbeing of children, teacher and staff from the school.
6. She had serious concerns about the amount of children under safeguarding. It was a nice area and she understood that the business needed to make money but the well-being and protection of children was a priority.

7. Councillor Mary Locke asked that a variation of hours at least be included as a condition and added that there needed to be closer working with the authorities in the future.

During his summing up in making representations against the application Jonathan Leonard stressed that on behalf of the school children of a Local Authority School and for the safety and protection of children, he requested that the Sub-Committee did not permit the sale of alcohol while there were children in the area.

During his summing up on behalf of the applicant, Anthony Gregson stated that no objections to the application had been submitted by the police. Parents also had the option to make representations but had chose not to. The application had been advertised in the local papers and outside the premises. The protection of children had been considered in the application. The applicant had considered the 4 licensing objectives and would remove all advertising of alcohol.

Following a short adjournment at 1020 hours the meeting reconvened at 1023 hours. The Applicant confirmed that they were happy to agree to a variation of hours for the sale of alcohol from 1730 hours to 1200 midnight, Monday to Friday and 1100 hours to 1200 midnight, Saturday and Sunday.

At 1025 hours the Chairman requested all present, with the exception of the Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

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

6/190319

RESOLVED:-

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

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

**LICENSING ACT 2003 (TEMPORARY EVENT NOTICE) – QUANTUM, 77A
UPPER TRINITY STREET, BIRMINGHAM, B9 4EG**

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

(See document No. 2)

The following persons attended the meeting.

On behalf of the applicant

Thomas Jenkins – Applicant
Heath Thomas – Solicitor

Those making representations

PC Deano Walker – West Midlands Police
Martin Key – Environmental Health

Following introductions by the Chairman, Shaid Yasser, Licensing Section, made introductory comments relating to the report.

Heath Thomas made the following points on behalf of the applicant and in response to questions from Members:-

1. Following a discussion with WMP and Environmental Services this morning regarding the 3 TENS in respect of Quantum Exhibition Centre, on 7 April, 21 April and 9 May, 2019 WMP is only objecting to the 9 May TEN. Environmental Health is objecting to all three dates.
2. He was aware from Environmental Health that a previous TEN on 27 October and 1 December had an end time of 0200 hours and the TEN on 1 March had run until 0300 hours.

Martin Key, Environmental Health suggested that Environmental Health be given the opportunity to attend the premises and assess the noise and measures that were in place by allowing the TENS on 7 April to go ahead. He also asked that the hours for the TENS be amended to 0200 hours. He further suggested that the TENS on 21 April and 9 May be adjourned until after the first TENS had been monitored.

Martin Key was concerned that the premises were not designed as a nightclub but were in fact a warehouse. He would object to any TEN at the premises unless a noise monitoring device was installed

WMP had objected to the TEN on 9 May as it was a Thursday. They would be happy if the end time was amended to 0200 hours

There was a mutual agreement between the parties that it would be appropriate to allow the first TEN for 7 April, 2019 to take place with reduced hours to 0200 hours and Martin Keys withdrew his objection to 7 April to enable Environmental Health to monitor and assess the device. The TENS on 21 April and 9 May should be adjourned until the first available date following such monitoring had taken place.

At 1149 hours the Chairman requested all present, with the exception of the Members, the Committee Lawyer and the Committee Manager withdraw from the meeting.

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

7/190319 **RESOLVED**

That, having considered as a preliminary point prior to the hearing, representations from West Midlands Police and Environmental Health in respect of the temporary event notice, as submitted by Thomas Jenkins the premises user, for events to be held on 7 April, 2019, 21 April, 2019 and 9 May, 2019 at Quantum, this Sub-Committee determines that:

A Counter Notice is not issued under Section 105 of the Licensing Act 2003 in respect of the modified TEN for 7 April and the remaining TENs are adjourned until 0930 hours on Thursday, 11 April, 2019, Room C, Council House Extension, Margaret Street, Birmingham, B3 3BU, when this Sub-Committee sits to consider the objections from the Responsible Authorities.

The Sub-Committee recognised a mutual agreement between the parties was in place following a constructive dialogue over the hours sought for a temporary event on 7 April, 2019 with conditions attached from the venue's premises licence. Members noted the parties considered it would be appropriate to have the first TEN for 7 April, 2019 take place with reduced hours from 00:30 to 02:00 hours to enable Environmental Health to monitor and assess the installation of a noise monitoring device.

Although some caution was expressed by both Responsible Authorities in connection with the design of the venue and its proposed operation beyond 02:00 hours in the TEN's submitted for events of 21 April and 9 May, 2019, the consensus was that these matters be adjourned to allow the responsible authorities to determine whether the licensing objectives were being promoted by the TEN's user as indicated by the Solicitor for the premises user.

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. No appeal may be

brought later than five working days before the day on which the event period specified in the Temporary Event Notice begins.

OTHER URGENT BUSINESS

There was no other urgent business.

The meeting ended at 1157 hours.

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CHAIRMAN

PRIVATE

MINUTES

That the private section of the Minutes of meeting held on 5th March 2019 were noted, and the Minutes as a whole were confirmed and signed by the Chairman.

READMITTANCE OF THE PUBLIC

09/260319 **RESOLVED**

That the public be re-admitted to the meeting.

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CHAIRPERSON

BIRMINGHAM CITY COUNCIL

LICENSING SUB – COMMITTEE B 26 MARCH 2019
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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY 26 MARCH 2019, AT 0930 HOURS, IN ELLEN PINSENT, COUNCIL HOUSE, VICTORIA SQUARE, BIRMINGHAM, B1 1BB

PRESENT: - Councillor Nagina Kauser in the Chair;

Councillors Mike Sharpe and Adam Higgs.

ALSO PRESENT

Bhapinder Nandhra – Licensing Section
Parminder Bhomra – Legal Services
Katy Townshend – Committee Services

NOTICE OF RECORDING

- 1/260319 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

DECLARATIONS OF INTERESTS

- 2/260319 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests arising from any business discussed at the meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations to be recorded in the minutes of meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

- 3/260319 No apologies were submitted.

MINUTES

- 4/260319 That the Minutes of meeting held on 5th March 2019 were noted.
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**LICENSING ACT 2003 PREMISES LICENCE – GRANT – MINI PRICE
CONVENIENCE STORE, 6 COTON LANE, ERDINGTON, BIRMINGHAM, B23
6TP**

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

(See document No. 1)

The following persons attended the meeting.

On behalf of the Applicant

Mohammed Osman – Applicant
Rob Edge - Agent

Those Making Representations

PC Ben Reader – West Midlands Police
Terry Guest - Erdington BID
Councillor Gareth Moore – Local Ward Councillor

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Following introductions by the Chairman, Bhapinder Nandhra, Licensing Section, made introductory comments relating to the report.

Mr Rob Edge, on behalf of the applicant, made the following points:-

- a) That Mr Osman (Applicant) intended to run a professional enterprise, and had invested time and money into making it a success without compromising the licensing objectives.
- b) The premises was modern and they would work in cooperation with West Midlands Police (WMP) and other responsible authorities.
- c) That they had demonstrated that they would promote the licensing objectives at all times.
- d) That they had additional conditions to the operating schedule and had reduced the hours. They had also carried out mediation.
- e) That they had reduced the hours from Monday-Sunday 0700-0100 to 0900-2300 hours.
- f) The additional conditions included no single can sales or bottles above ABV of 6.5%.
- g) That all staff would be fully trained prior to opening.

- h) There would be no alcohol on display in the window area of the shop, at the front.
- i) That Environmental Health had made no representations and was the experts on public nuisance according to the Section 182 Guidance.
- j) That the applicant had previously worked at two licensed premises.
- k) That the Council Policy stated that licensing was not a mechanism of control over anti-social behaviour by individuals. Any existing ASB (Anti-social behaviour) and crime and disorder issues could not be associated with the premises.
- l) That he was an experienced operator.
- m) That if granted the premises would be run as intended and the licensing objectives would not be undermined.
- n) That if the premises had issues, they could review it.

Cllr Higgs asked for more detail in relation to the applicant's history of working in licensed premises.

Mr Osman responded to Cllr Higgs explaining that he had worked in a supermarket in Erdington for a long time, some 15-16 years. Additionally, he had also worked for a company in Norway so he was very experienced. He also knew the Erdington area very well and knew the people, so would not be selling alcohol to those who were already drunk, or under 25.

Mr Edge added that they had gone through mediation with the parties whom objected.

The Members wanted to know what the premises was used for previously, the parties had a discussion and advised it was used previously as an Indian Restaurant.

The Chairman asked Mr Osman to name the 4 licensing objectives.

After some deliberation, Mr Osman mentioned the following:-

1. Prevention of crime and disorder
2. Protection of the public
3. Public Nuisance and safety
4. Protection of the children.

The Chairman expressed concerns over the limit of ABV being 6.5% when the national standard was 5.5%.

Mr Edge advised they would happily comply with the national standard and continued to outline the case:-

- a) That none of the other local premises had conditions regarding no single can sales and therefore, those premises were the places people would go to buy single cans.
- b) That another premises was granted in the last 3 months with a license until 0300 hours.
- c) That they would have 3 staff; the applicant, and 2 others.
- d) Mr Osman would be PLH (Premises Licence Holder) and DPS (Designated Premises Supervisor).

On behalf of West Midlands Police (WMP), PC Reader, made the following points:-

- a) That PC Walker made the representations, but PC Walker was not able to attend the hearing. He would be guided by what “Deano had said”.
- b) That it was a Cumulative Impact Zone.
- c) That the applicant needed to prove that they would not add to crime and disorder in that area.
- d) That there were 56 premises with alcohol already available in that area and that didn’t take account of the nearby neighboring wards.
- e) That conditions had been amended and modified through mediation and they appreciated conditions had been offered and suggested, however, PC Walkers response was that the special policy zone was created for a reason and the area was already problematic and had an abundance of vulnerable people there.
- f) That they were not aware of the applicant, he only applied for a personal licence 4 months ago.
- g) It was an already saturated area.

In answer to Members questions PC Reader made the following points:-

- a) That they were only concerned about the alcohol.
- b) That he had got the total of 56 licensed premises from the BCC website.

Mr Edge clarified that his client had told him that he had a personal licence with West Bromwich for 6 years.

Councillor Gareth Moore made the following statements:-

- a) That he was making representations on behalf of Cllr Alden and the residents.

- b) There were concerns over street drinking and crime and disorder.
- c) That there was lots of street drinking already happening in the local area and there were concerns that the premises would only add to it.
- d) That the police were assisting them in dealing with the premises and they were also working with the local BID to address street drinking.
- e) That the key issue was the availability of alcohol.
- f) That it was easy to obtain alcohol.
- g) That new premises were often targeted as a special place for street drinkers to take advantage.
- h) That he had included some crime statistics from January 2019 from the police website which would give a snapshot of crime that takes place in the area.
- i) That 39% of violent crime incidents were committed by people under the influence of alcohol.
- j) That it was a significant issue.
- k) That there was crime taking place in the vicinity of the premises; the road it was on was only a short road.
- l) That just because environmental health had not objected it did not mean that it was not taking place.
- m) That the applicant's lack of experience was a concern.
- n) That it would have to be exceptional circumstances to grant the application.
- o) That whilst the applicant stated he had 15-16 years' experience the references submitted only covered 3 years. The experience he had explained did not suggest anything about managing licensed premises.
- p) That if the Committee was minded to grant the conditions were helpful, but the only way to ensure that the issues weren't added to was to refuse the application.

Mr Guest, on behalf of Erdington BID, made the following points:-

- a) That the High Street was short, residential and was regularly troubled by anti-social behaviour (ASB).
- b) That dozens of street drinkers were found on the High Street daily resulting in ASB.

- c) That local businesses were complaining about the increase in ASB and street drinking.
- d) That after dark the High Street was virtually a “no go area”.
- e) That he believed the application should not go forward.
- f) That granting a licence in the middle of a problem area was just asking for trouble.

In Summing up Mr Guest simply advised that he believed the application should not be granted.

In summing up Cllr Gareth Moore made the following points:-

- That there was a huge problem with ASB and street drinking and they wanted to crack down on it, another licensed premises would only add to it and not help the current situation.

In summing up PC Reader, on behalf of WMP made the following points:-

- That the BID manager was here to promote business, yet they had objected to the application. That spoke for itself and highlighted the volume of issues in the area.
- That it was a Cumulative Impact Zone and they had objected to it.

In summing up, Mr Edge, on behalf of the applicant, made the following points:-

- That Mr Osman had signed a 3 year lease with the landlord as a grocery convenience store, however, without alcohol the business would not be viable.
- That there was a mixture of businesses in the local area, but no grocery store.
- They had changed the hours, offered additional conditions and the operator had experience working in licensed premises already.
- That they would ensure staff training took place prior to the premises opening if it was granted and all the details were in the operating schedule, including refusals, incident log.
- That the references didn't go into detail due to language barriers.
- The operating schedule was strong.

At 1018 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.

At 1057 hours all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

5/260319 **RESOLVED:-**

That the application by Mohammed Osman for a premises licence in respect of Mini Price Convenience Store, 6 Coton Lane, Erdington, Birmingham, B23 6TP **BE REFUSED** due to concerns by West Midlands Police, and other persons regarding the impact of the proposed operation in the Cumulative Impact Zone of Erdington.

The Sub-Committee noted that a Cumulative Impact Policy is in force for the Erdington area, the effect of which is to create a rebuttable presumption that applications will normally be refused unless it can be shown that the premises concerned will not add to the cumulative impact on the licensing objectives being experienced.

Having considered the application and the evidence submitted, the Sub-Committee was not convinced that the applicant's proposed operating schedule together with the reduced hours and the 4 additional conditions would not add to the existing levels of crime and disorder occurring in the locality of Coton Lane.

The members took into account the character of the specific area in which the premises is located as described by other persons, and the applicant's limited licensing experience of Erdington, and determined granting a new off licence on Cotton Lane, identified as a 'troublesome spot', would be inappropriate.

In view of the saturation of licensed premises in the centre of Erdington not far from Coton Lane, members felt adding another off licence would increase the availability of alcohol to street drinkers dependent on a local supply of alcohol, and in turn exacerbate the existing situation of public nuisance and complaints from the local neighbourhood.

The Sub Committee were not confident that any negative impacts on the local residents and businesses in terms of crime, disorder, nuisance and antisocial behaviour would be minimised by the applicant's new operation to prevent further crime and disorder and public nuisance impacting on the licensing objectives.

The Sub-Committee concluded the application is likely to add to the cumulative impact on the licensing objectives.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy including the Cumulative Impact Policy in force for the Erdington area, the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the information contained in the application, the written representations received and the submissions made at the hearing by the applicant, their 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.

LICENSING ACT 2003 PREMISES LICENCE – GRANT – EXTRA
SUPERMARKET, 187 HIGH STREET, ERDINGTON, BIRMINGHAM, B23 6SY

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

(See document No. 1)

The following persons attended the meeting.

On behalf of the Applicant

Jiger Patel – Applicant
Puthrasingam Sivashankar – Agent
Philip Colvin – Barrister - QC

Those Making Representations

PC Ben Reader – West Midlands Police
Terry Guest - Erdington BID
Councillor Gareth Moore – Local Ward Councillor
Martin Williams – Trading Standards.

* * *

Following introductions by the Chairman, Bhupinder Nandhra, Licensing Section, made introductory comments relating to the report.

Mr Philip Colvin, on behalf of the applicant, made the following points:-

- a) That the location of the shop was included at page 89 of the evidence pack. It was a long, deep premises that opened out at the back and the layout of the premises itself could be viewed on page 87.
- b) That the photographs (handed round to Members which were pictures of the layout/products in the shop) showed the premises was a proper supermarket, it had a deli counter, a meat section, fruit and veg.
- c) That the alcohol area was “tiny” and the wines and spirits were situated behind the counter.
- d) That they offered a really extensive list of conditions which demonstrated “best practice” for a premises of that sort.
- e) That they were willing to limit the hours further from 0900-1900 hours.

- f) That Mr Patel himself would be in charge and was uninvolved in the previous wrong doing at the premises.
- g) That Mr Patel was a man of good character and his father had been unwell and wanted to withdraw from the business.
- h) That the company was the same as previously but Mr Patel would be taking over.
- i) That he was a man without convictions.

In answer to Members questions Mr Patel made the following points:

- a) That what happened before would not happen again.
- b) That he had studied at the University of Westminster and had worked in the grocery trade for a long time. He had held a personal licence for some time.
- c) That the premises was previously managed by Mr Koloda.
- d) That he had opened a new off licence in London with his brother and sister and he was the DPS.
- e) That there were no issues at the London premises.
- f) That in March 2017 his father underwent surgery for Cancer and he took over ordering of the meat and groceries. However, he had nothing to do with the alcohol.
- g) That he was not present during the inspection in relation to the previous licence.
- h) That he did not believe Mr Koloda's explanation of what happened.
- i) Mr Koloda had left the business.
- j) That they had added some suggested conditions at page 94 (and he went through them to aid Members).
- k) That every bottle of alcohol would be cross checked by an employee.
- l) There would be 2 personal license holders checking invoices and bottles.
- m) That he would be working full time in the shop.

Mr Colvin added:-

- a) That the applicant's father would cease to be the director and neither his mother nor father would be working in the shop.

- b) That the Cumulative Impact Zone was a “rebuttable presumption, not an iron door.”
- c) That they were satisfied that there would not be an addition to the Cumulative Impact Zone and each case should be judged on own merits.
- d) That the shop was designed as follows:-
 - Full range of products, including fresh fruit store.
 - Small alcohol section
 - The alcohol section was not adjacent to the front door; it was instead on the other side of the counter under supervision.
 - That the hours would be 0900-1900 and the alcohol would be controlled with shutters.
 - That staffing would not be stretched. There would be 10-12 staff employed.
 - The licence holder was experienced.
 - That the suite of conditions represented best practice in the field.

At this stage Mr Colvin referred Members to the proposed conditions on page 79 of the evidence pack and proceeded to go through them in order to aid Members. Mr Colvin discussed the conditions regarding staff, training, alcohol percentages, no white cider alcohol, no single cans, no promotions and the CCTV.

Mr Colvin continued to outline the case for the applicant:-

- a) That a new shop may not be aware who the street drinkers are, therefore they would adopt a banning provision and subsequently offered an invitation to WMP to describe them, provide photographs and therefore, they could exclude them from the shop.
- b) They would have an incidents log.
- c) That his client would have no exterior promotions; no multi-buys.
- d) That he would happily listen to any other conditions which Members felt would be effective. However, the conditions offered already went radically beyond what was already in place with other premises on that street.
- e) That it was no surprise that with no protective conditions in place street drinkers occurred.
- f) That his client wanted to set the bar very high and then authorities could go to other premises and ask them to do the same. Therefore, less street drinkers if the licence was “used as a spring board”.
- g) That the crime data submitted by the Councillors were figures you would find in relation to any high street.

In response the questions from Members, Mr Colvin made the following points:-

- a) That they had reached out to those who had made representations and on page 101 there was a copy of the letter they had sent to Public Health and Trading Standards.
- b) That they refused to meet his client.
- c) That they were still open to meeting, and were happy to work with the BID and all responsible authorities.
- d) That the intention would be that Mr Patel would be full time in the shop.

Mr Patel added that he was not operating any shops currently and wanted to give 100% to the operation of this shop. Prior to Mr Patel taking over the shop he was only purchasing the meat and dairy, and was attending the shop once a week. He was devastated to find out illicit stock was being sold. That going forward he would employ 2 personal licence holders, and the alcohol would only be purchased by himself. The alcohol would be cross checked and training would be given to all staff. He would happily provide a list of the wholesalers he would use and would only be buying from reputable wholesalers.

That Mr Patel's father was involved with the business but his health deteriorated and he met Mr Koloda who took over, as he thought he could trust him.

In response to Cllr Kauser, Mr Patel advised he now resided in Birmingham and was aware of the issues in Erdington, especially street drinkers, who "were everywhere".

Mr Colvin continued:-

- a) That Mr Patel's father wanted to leave his son to run the business; he didn't want to be involved. They were happy to have it as a condition.
- b) That the premises was open 0800-2100 hours.
- c) That they had reduced the alcohol hours.

In response to Members, Mr Patel outlined the 4 licensing objectives: Child safety, crime and disorder, public nuisance and public protection. In addition he also advised that he had not experienced any crime in the area.

On behalf of West Midlands Police PC Ben Reader made the following points:-

- a) That they were still within a Cumulative Impact Policy. However Deano Walker had done the objection to this and within his objection he had acknowledged the premises were subject to Trading Standards enforcement and illicit products were found and the licence was revoked.
- b) That the assumption it was all to do with Mr Koloda was down to Cllrs to decide if they were convinced by that. Clearly the proposed new operator was involved with the business and yet they were told he was oblivious.

- c) That it was unusual for the BID Manager to make an objection.
- d) That the applicant said the alcohol section of shop was small, yet they were “jumping through hoops” to get it granted. Mr Colvin was highly regarded; why were they making such an effort to get a 2 meter fridge open.
- e) That he did not know what the email regarding “not selling cigarettes” was.

At this stage Mr Colvin confirmed that they were not selling cigarettes.

Cllr Higgs asked if PC Reader was satisfied that Mr Patel was fit and proper to run a business?

PC Reader responded:-

- a) That although they had offered lots of conditions, they were only useful if they were compliant with them.
- b) That the premises had a history and had been reviewed and revoked for not complying.
- c) That although Mr Patel stated he was not involved, both him and his father were involved and therefore, there was still a causal link.
- d) That on its merits it was a fresh application, but that was only if Members accepted the fact this man was oblivious to the previous history. They think he was involved in the previous business.
- e) That they were good conditions but it was still in a Cumulative Impact Zone. That it was up to the Committee, but reduction in hours could only be seen as a positive.

On behalf of Trading Standards, Mr Martin Williams, made the following points:-

- a) That he had spoken with Mr Koloda and Mr Patel throughout the investigation. Mr Koloda said Mr Patel was buying the goods and Mr Patel said Mr Koloda was buying them, so clearly we have two different points of view.
- b) That when he spoke with them Mr Patel had been manager of the shop since 2017 and Mr Williams argued that anything in the shop would have been purchased by Mr Patel. That clearly it was a business partnership to begin with, Mr Koloda and Mr Patel's father were directors.
- c) That subsequently those things made them suspicious.
- d) They had questioned if what they were being told was actually what was happening.

- e) That Mr Patel had told them he was the shop manager on the day they carried out the inspection and he said he would find the invoices; false promises.
- f) That they found 95% alcohol spirit under the counter, which was not illegal but it was a concern.
- g) That the applicant had said he would not sell high strength alcohol, specifically beers and ciders, yet no mention of spirits. This concerned Mr Williams.
- h) That the email from the 5th February was the same company that was on the licence when it was revoked. The same company was subject to criminal proceedings in the court system and was still under investigation by Trading Standards. Mr Patel told them he was the manager of the shop on 24th May and was involved in the purchase of alcohol.
- i) It was a concern that Mr Patel had been “in and out of control of the business”.
- j) That he did not believe there was any changes or difference in the company or who was involved and therefore, he could not see how anything would change from how it previously operated.

In answer to Members questions Mr Williams, made the following points:-

- a) That he was concerned that Mr Patel was involved in the business previously and was involved when the illicit products were found.
- b) That the blame should be made at three people, Mr Patel's father, Mr Koloda and Mr Patel himself. However, they all blamed one another and none of them would accept responsibility.
- c) That illicit tobacco and alcohol was found and then there was a 95% spirit found under the counter which they felt was very irresponsible to sell in a shop. They said it was just for cooking and that's why they stocked it.
- d) That the conditions went somewhat to help reassure them but it didn't help in terms of high strength spirits which was their main concern.

Councillor Moore made the following points:-

- a) That off licences clearly faced challenges such as street drinking. However the location of the premises was on the edge of a cluster of premises and that was significant as it was closest to the church and a lot of street drinking took place at the church. In 2007 the church was the victim of a fire as a result of a disagreement with the priest. There was still prostitution, drug taking, and street drinking taking place there now.
- b) That it was a major concern that the closest off licence to the problems by the church was this premises and it was selling illicit alcohol.

- c) That the premises did contribute to the issues and was engaged in crime and disorder and selling illicit alcohol and it was a reasonable conclusion that street drinkers were buying the alcohol from this premises.
- d) That there was a concern that there was not a substantial separation between the new application and the old premises; father and son both involved. Mr Patel was ordering the groceries so there would have been some communication and involvement. That it could not be the case that no one else knew apart from Mr Koloda.
- e) That there was reference made to his mother and father wanting to retire, yet no time frame. How can anyone take it at face value after the previous history?
- f) That the applicant said it's a small alcohol section, yet no indication that it's any different from before.
- g) That cigarettes were not a licensable activity so even if they did sell them there was nothing the authorities could do.
- h) That there was nothing to say that Mr Patel wouldn't become ill and pass the responsibilities to someone else, which was what happened with his father previously.
- i) That surely Mr Patel would not work 7 days a week.
- j) That it was "not a fresh new outfit".
- k) That the business was the same.
- l) That if the Committee was minded to grant, the conditions should be added.
- m) That they had previously broken the law, how can they be sure they won't break conditions of licence when they have broken the law?
- n) That a condition on spirits needed to be added and he asked the Councillors to rely on the Committee Lawyer to advise them on that.

Mr Guest, BID Manager, made the following points:-

- a) That they were designed to support business but they could not support the application for a previous business caught doing criminal activity.
- b) That they would react positively to new conditions if the premises were to adhere to the conditions but it was an existing business that had already committed criminal offences.
- c) That the shop was close to the church yard and the devastation there from street drinkers was a massive concern.

- d) That whilst they fully understood the change in circumstances they could not support the application as it was damaging the reputation and local business.

At this stage all parties were invited to make closing submissions, firstly, Mr Guest, BID Manager summed up with the following points:-

- That he was not satisfied that there was clear separation between the previous business given the criminal activity.

Cllr Moore advised he didn't have anything further to add.

In summing up Mr Williams, on behalf of Trading Standards made the following points:-

- That it was the same business as before and should not be granted.

In summing up, PC Ben Reader on behalf of West Midlands Police, made the following points:-

- That with it sitting in a Cumulative Impact Zone and with the previous history it should not be granted.

In summing up, Mr Colvin, Counsel on behalf of the applicant, made the following points:-

- That Mr Koloda was the director and DPS of the business and he was the one who represented the company at the Committee meeting. However, the Committee didn't believe him and he walked away from the business entirely.
- That Mr Patel was not the DPS or the director, and when he did apply for DPS no one opposed it.
- Mr Patel was a finance graduate and had 10 years of good working history in the licence industry.
- That there was no evidence of Mr Patel being involved.
- That he was a different person.
- That Mr Patel was working in London full time and had been the DPS for 2.5 years working without criticism at all.
- That Mr Patel had suffered from being a member of the family but he was not the person on the spot he was only in charge of ordering meat and so forth.
- That Mr Patel's father should have no involvement and should not visit the shop if Members wished.

- That Mr Patel did not have a bad history and had moved to Birmingham in order to manage the shop, he had earned himself a chance.
- That the authorities had confirmed the conditions were good.
- That they were happy to have conditions regarding high strength spirits.
- He would also be happy with a condition regarding cigarettes.
- That Iceland was closer to the Church than Mr Patel's shop.
- That the corporate entity was the same, but the operation was different.
- That the Committee could control that by putting a condition on regarding changes in directorship; that they should be notified to the licensing authority.
- That he deserved a chance.

At 1217 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.

At 1320 hours all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

6/260319

RESOLVED:-

That the application by Paromstor Ltd, for a premises licence in respect of Extra Supermarket, 187 High Street, Erdington, Birmingham, B23 6SY be refused.

The Sub-Committee's reasons for refusing the application for a premises licence were due to concerns by West Midlands Police, Trading Standards and other persons regarding the previous review of the premises licence which was held by the same company. In particular Members had reservations over the compelling history of the applicants association with the company at the time of the previous review that could not be ignored or disregarded completely.

Members were concerned that the Patel family could have some influence over their son - the applicant - operating the business, even if they were to retire. Members were not convinced that there was or could be a clear degree of separation, which was brought to their attention by the Trading Standards Officer. Consequently, the Sub Committee did not think this could be resolved by way of conditions as put forward by the applicants counsel.

The Sub Committee considered that whilst the licence applied for was in the name of the applicant, and it should be considered on its merits, it was difficult to establish the truth as to whether the applicant was complicit or careless in the previous narrative of the premises. The applicant's credibility was an issue.

Members took account of the various concerns expressed by other persons and Responsible Authorities who surmised there was no reason to believe the premises would be run any better should this new application be granted, due to its past history.

Members felt in essence, the applicant was not totally free from blame given his association and experience of running the family business in the past year, and struggled to believe the premises would be operated to higher standard by virtue of the suite of conditions presented as best practice. By granting the licence, the premises would effectively still have the same family connections that were particularly a cause of concern for the Trading Standards authority on the basis all members of the family had absolved themselves of any responsibility for the illicit alcohol and tobacco found on the premises. Further, that should the applicant leave for any reason; the business would remain licenced and could revert to management by a member of the applicant's family.

The Sub-Committee noted that a Cumulative Impact Policy was in force for the Erdington area, the effect of which was to create a rebuttable presumption that applications would normally be refused unless it could be shown that the premises concerned would not add to the cumulative impact on the licensing objectives being experienced. In light of the above, Members were not confident that the applicant could operate in such a way to promote the four licensing objectives in an area that was heavily saturated with licensed premises.

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.

EXCLUSION OF THE PUBLIC

7/260319

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.

8/260319

OTHER URGENT BUSINESS

There were no matters of urgent business.

The meeting ended at 1325 hours.

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CHAIRMAN

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE B 11 APRIL 2019
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**MINUTES OF A MEETING OF LICENSING SUB-COMMITTEE B HELD ON
THURSDAY 11 APRIL 2019 AT 0930 HOURS IN ROOM C, COUNCIL HOUSE
EXTENSION, MARGARET ST, BIRMINGHAM**

PRESENT: - Councillor Nagina Kauser in the Chair

Councillors Bob Beauchamp and Mike Sharpe

ALSO PRESENT

Bhapinder Nandra, Licensing Section
Parminder Bhomra, Committee Lawyer
David Smith, Committee Manager

NOTICE OF RECORDING

- 1/110419 The Chair advised and the meeting noted that members of the press/public may record and take photographs except where there are confidential or exempt items.

DECLARATIONS OF INTERESTS

- 2/110419 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 to be recorded in the Minutes of meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

- 3/110419 Apologies were submitted on behalf of Councillor Higgs. Councillor Beauchamp was the nominee Member.

MINUTES – PUBLIC

- 4/110419 The Minutes of the public session of the meeting held on 12 March 2019 were noted.

LICENSING ACT 2003 MULTIPLE TEMPORARY EVENT NOTICES
QUANTUM, 77A UPPER TRINITY STREET, BIRMINGHAM B9 4EG

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 premises user

Olivia Rhoden

Those making representations

Martin Key – Environmental Health

* * *

Following introductions by the Chair, Martin Key, Environmental Health, advised that he had reached an agreement with Olivia Rhoden, on behalf of the premises user, and he felt that the Environmental Health objections would be met if the Committee was minded to accept the proposals.

The following schedule of proposed conditions was tabled on behalf of the premises user:-

(See document No. 2)

Bhapinder Nandra, Licensing Section, introduced the report and advised that notification had been received from West Midlands Police that it was withdrawing its objections.

Olivia Rhoden, on behalf of the premises user, advised that a noise monitoring device had been installed and activated at the premises and that it was proposed to end the events at 0200 hours.

Martin Key, Environmental Health, informed Members that the noise monitoring device had been effective, limiting the power level and preventing the volume from being increased. The device had been monitored and tested, with additional measurements taken inside and outside the premises. He confirmed that there had not been any complaints in relation to the previous event on 7 April 2019 and noise levels were felt to be acceptable. While the license included live music, the premises user had not included that provision within the Temporary Event Notices. The only amplification would be through the in-house limited system. The premises user had undertaken to produce a revised and updated Security Risk Assessment and Deployment Plan.

In response to a question from Councillor Beauchamp, Martin Key explained that the device 'clipped' the volume by preventing an increase in power. The sound waves were compressed, producing a cleaner, less distorted sound than other systems. It was popular with musicians and entertainers and had been proved to be effective during use.

Licensing Sub Committee B – 11 April 2019

In response to further questions from Members of the Sub-Committee, Olivia Rhoden and Martin Key made the following points:-

- a) The device had a sealed cover, with a tag added by Environmental Health to prevent tampering. It was kept in a locked box and in a locked room.
- b) The Plan was to be updated and tailored to the premises, rather than being a generic document. Environmental Health would work with the premises user and advise on expanding the contents, with the inclusion of operator procedures.
- c) Environmental Health would monitor the events and ensure that controls were in place. The premises user had discussed sound and vibration issues with Environmental Health and was proceeding as advised.

With reference to the proposed conditions tabled by the premises user, Parminder Bhomra, Committee Lawyer, advised that the first proposed condition could be achieved by amending the Temporary Event Notices (TENs). With regard to the second condition, the premises user confirmed that the TENs did not include live music. The Committee Lawyer confirmed that the Sub-Committee could impose the third proposed condition and advised that the fourth and fifth proposed conditions could be agreed under Section 2D of the license, which would be transferred to the TENs under the third proposed condition.

At this stage in the meeting, Martin Key summed up by advising Members that he believed the premises user could operate and act appropriately with the proposed conditions in place. Environmental Health would withdraw its objections if the proposed conditions were accepted, along with the assurances given.

In summing up, Olivia Rhoden advised, on behalf of the premises user, that the premises user would agree to comply with the proposed conditions.

At 1020 hours the Chairman requested all present, with the exception of Members, the Committee Lawyer and the Committee Manager to withdraw from the meeting.

At 1045 hours the meeting was reconvened and all parties were invited back into the meeting. The decision of the Licensing Sub Committee B was announced as follows:-

5/110419 **RESOLVED:-**

That, having considered the objection notices from Environmental Health in respect of the two temporary event notices for 21 April and 9 May 2019, as submitted by Thomas Jenkins, the premises user, for the events to be held at Quantum, 77A Lower Trinity Street, Birmingham B9 4EG, this Sub-Committee determines that a Counter Notice is not issued under Section 105 of the Licensing Act 2003.

Licensing Sub Committee B – 11 April 2019

The Sub-Committee considers both events should be allowed to proceed at the premises following on from the premises user modifying the TEN's during the hearing by reducing the licensing hours for all regulated entertainment to cease at 2am.

Further, that the premises licence conditions attached to licence number 4986 are transferred to both TENs to promote the licensing objectives.

In respect of a previous temporary event held on 7th April 2019, Members noted there was no complaint. Members noted both parties were engaged in positive dialogues and that there was a strong willingness on the part of the premises user to overcome any issues or concerns raised. This was apparent in the submissions made by both parties, particularly Environmental Health, who carried out a noise risk assessment shortly after 7th April, and calibrated a noise limiter device that had been installed by the premises user.

The Sub-Committee gave careful consideration to the submissions from both the premises user and Responsible Authority, in addition to the report, Section 182 – Home Office Guidance and its own licensing policy.

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. No appeal may be brought later than five working days before the day on which the event period specified in the Temporary Event Notice begins.

OTHER URGENT BUSINESS

6/110419 There was no urgent business.

EXCLUSION OF THE PUBLIC

7/110419 **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 3 & 4)

PRIVATE

MINUTES – PRIVATE

8/110419 The Minutes of the private session of the meeting held on 12 March 2019 were noted and the Minutes as a whole were confirmed and signed by the Chairman.

OTHER URGENT BUSINESS (EXEMPT INFORMATION)

9/110419 No items of other urgent business were submitted.

The meeting ended at 1047 hours.

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CHAIRPERSON

BIRMINGHAM CITY COUNCIL

LICENSING SUB – COMMITTEE B 23 APRIL 2019
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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY 23 APRIL 2019, AT 0930 HOURS, IN ELLEN PINSENT, COUNCIL HOUSE, VICTORIA SQUARE, BIRMINGHAM, B1 1BB

PRESENT: - Councillor Nagina Kauser in the Chair;

Councillors Mike Sharpe and Adam Higgs.

ALSO PRESENT

Bhapinder Nandhra – Licensing Section
Parminder Bhomra – Legal Services
Katy Townshend – Committee Services

NOTICE OF RECORDING

- 1/230419 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

DECLARATIONS OF INTERESTS

- 2/230419 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests arising from any business discussed at the meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations to be recorded in the minutes of meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

- 3/230419 No apologies were submitted.

LICENSING ACT 2003 PREMISES LICENCE – GRANT – SO CALLED STUDIOS, FORWARD HOUSE, REAR OF 32 STATION ROAD, ACOCKS GREEN, BIRMINGHAM, B27 6DN

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

(See document No. 1)

The following persons attended the meeting.

On behalf of the Applicant

Ryan Lowry – Applicant
Michael Sadde – Employee

Those Making Representations

No one attended.

* * *

Following introductions by the Chairman, Bhapinder Nandhra, Licensing Section, made introductory comments relating to the report.

Mr Lowry made the following points:-

- a) That in relation to the petition, they had taken legal advice on the application and it was never going to be full on.
- b) That they had been operating 4 years in May.
- c) That most people had not heard of them, but the building was fully sound proof and everyone behaved responsibly.
- d) That there was construction work going on at a warehouse near them and residents thought it was their premises and they assumed it was going to be a huge construction.
- e) That they have 4-5 bands Monday-Thursday and most people bring their own alcohol and have a drink whilst they are there.
- f) That it was not a young person's venue.
- g) That people would not want to pay their prices for alcohol, so it would not attract the general public.
- h) That fire risk assessments had been carried out and confirmed the capacity was limited to 30-40 people.
- i) That they had carried out TENs in order to test it.
- j) That they had spoken with residents and initially Cllr Harman started the petition, however he did not really know what they were doing really and then when he realised it was much smaller than he thought they agreed some conditions and resolved the issues. However the petition still stood.
- k) That they would make sure people left quietly.

- l) That most people were “old rockers”.
- m) That they got on well with people locally.
- n) That all the single objections had been withdrawn.
- o) That they tried to contact everyone but were unable to contact one who actually lived in Hall Green.
- p) That they could not open the windows in the venue and had air conditioning.
- q) That one resident could hear drums, but when they took her down to the venue, it became apparent that the sound of drums was coming from another venue.
- r) That if they had time they would have gone and got people to sign a petition in favour of the licence.
- s) That most people would pay to park over the road so it was not an issue.
- t) That a lot of people also got the train.
- u) That they didn’t want to fall out with anyone.
- v) That it was a one way street and they had been asking for a sign to be put up to remind people.
- w) That they were only looking to sell alcohol for income.
- x) That Mr Lowry would be behind the bar with another female member of staff.
- y) That Mark was SIA trained.
- z) That most people were in their mid-30s+.

In summing up Mr Lowry made the following points:-

- That they had changed the times from 4pm – so the premises would open at 1600 hours.

Bhapinder Nandra, Licensing Officer asked Mr Lowry if he was amending the application.

The Committee Lawyer further advised that changing the application to accommodate when the premises would open was a matter for them; it was a business matter.

Mr Lowry confirmed that they would not be amending the application.

At 1002 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.

At 1018 hours all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

4/230419 **RESOLVED:-**

That the application by So Called Studios Limited for a premises licence in respect of _So Called Studios, Forward House, Rear of 32 Station Road, Acocks Green, Birmingham, B27 6DN

BE GRANTED

Those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued.

Members carefully considered the written representations made by other persons in the form of a petition but were not convinced that there was an evidential and causal link between the issues raised and the effect on the Licensing Objectives. Further, it was noted that the local ward councillor who had organised the petition had withdrawn his objection after the applicant had made contact to address the concerns raised.

The Sub Committee having heard submissions from the applicant noted there was a misunderstanding amongst the residents who had signed the petition. According to the applicant, the noise nuisance complained of emanates from keep fit classes (with very loud music) held in the gym opposite and building works being carried out on a warehouse nearby. The applicant explained the noise nuisance was not associated with the venue as it was fully sound proofed and had operated well with live bands under recent temporary events notices.

The Sub Committee 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 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.

5/230419 **OTHER URGENT BUSINESS**

There were no matters of urgent business.

The meeting ended at 1025 hours.

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CHAIRMAN

