

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C 23 SEPTEMBER 2020
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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 23 SEPTEMBER 2020 AT 1400 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Mike Leddy in the Chair;

Councillors Mary Locke and Martin Straker-Welds.

ALSO PRESENT

Bhapinder Nandhra – Licensing Section
Joanne Swampillai – Legal Services
Katy Townshend – Committee Services

(Other officers were also present for web streaming purposes but were not actively participating in the meeting)

NOTICE OF RECORDING/WEBCAST

1/230920 The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

2/230920 **DECLARATION OF INTERESTS**

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 will be recorded in the minutes of the meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/230920 Apologies were submitted on behalf of Councillor Neil Eustace and Councillor Mary Locke was the nominated Member.

LICENSING ACT 2003 PREMISES LICENCE – GRANT – EUROPEAN MINI MARKET, 205 HOLYHEAD ROAD, HANDSWORTH, BIRMINGHAM, B21 0AS

Report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See document No. 1)

On Behalf of the Applicant

The applicant did not attend.

Those Making Representations

Abdool Rohomon – West Midlands Police (WMP)
Rakesh Sami – Soho Road Bid

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The Chairman introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider.

At which stage PC Rohomon alerted the Committee to an email which WMP received from the applicant prior to the hearing. He had not sent the email to licensing and advised that the Committee have sight of it, or he would read it out.

The chairman confirmed that they had not received the email and PC Rohomon could read it out once the Licensing Officer had read the report.

The Chairman then explained the hearing procedure prior to inviting the Licensing Officer, Bhapinder Nandhra to outline the report.

PC Rohomon read out the following email set out below: -

“Hi, I am aware that the police service have not supported my license application due to various reasons outlined. There are no such reasons declared in the terms and conditions that may object my application. When the police said that there is a lot of crime in the area and there are too many alcoholics, I believe that there are many other off licenses in the area where customers can buy their alcohol. If this is the case, then you should not point out my application regarding crime and beggars. You should then revoke licenses from every store in Handsworth. Me and my staff have trained for various situations. We have CCTV installed in the shop and outside the store. I have trained my staff to ask under aged customers for their license if they are planning to buy alcohol or cigarettes. If this is the case, I think you should've outlined this when I started my application that you are not taking any more license applications in the area.”

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Afterwards, the Chairman invited PC Rohomon to outline the representation on behalf of WMP, PC Rohomon made the following points: -

- a) That the shop was not very wide, and the trading space was around 21 feet.
- b) On the left-hand side of the shop there was a huge beer fridge as well as a shelf for alcohol. The volume for non-alcoholic goods was limited to two aisles. A high proportion was allocated to alcohol. Therefore, it was not just a general grocery shop, but instead an alcohol shop with a bit of groceries.
- c) The applicant should be mindful of the area, look at crime statistics and address the issues within the application. The application was limited and there didn't seem to be anything within it that addressed the problems in the area.
- d) The area was covered by two police units, and both had made representations.
- e) The supporting documentation included statements from officers who dealt with the issues in the area.
- f) The area suffered from high levels of drug dependants and crime such as street robberies, violent crime and public order offences. There were issues with alcohol and drug misuse which meant the local officers were having to deal with those issues daily.
- g) The area was considered a priority by WMP and needed controlling.
- h) The Soho Road BID had made an objection and they were usually promoters of business.
- i) There had been an increase in the use of a drug called Mamba in the area which had a profound impact on people.
- j) There had also been a surge of sex workers in the area.
- k) That granting the licence would have a negative impact on the area, especially for residents and business owners.
- l) The neighbourhood team were struggling to deal with the issues.
- m) The officers were clearly struggling, and it was evident from their statements.
- n) The plan indicated that a good majority of the shop was being allocated to alcohol.
- o) The application should be refused.

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

- a) That it was a small shop which was highly saturated with alcohol.

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- b) That a shop of that size wouldn't need that much alcohol if it was a general convenience store.
- c) Even with the support of the BID they were struggling with the on-going issues in the area, another alcohol dependent store was only going to add to those issues.
- d) That it wasn't the only premises they had objected to in the area, this was the third or fourth.
- e) He didn't know how many PSPO notices had been issued.
- f) The shop was only small, and the proportion of groceries was much smaller in relation to alcohol.
- g) That most of the shop was taken over by alcohol – it was detailed in the plan and because the applicant hadn't attended that's all they had to go off.
- h) They expected there to be more groceries.
- i) They already had significant problems in the area and another premises would only add to the issues.
- j) They weren't singling out a certain type of alcohol that was the cause of the issues. It was a problem with all alcohol.
- k) The applicant should understand the risks and threats in the area and detail what they would do to reduce those risk in order to reassure the Committee.
- l) The operating schedule was limited.
- m) That there were premises nearby selling alcohol.

The chairman then invited Soho Road BID to make his submissions, at which stage Rakesh Somi made the following points: -

- a) There were 2 or 3 licensed premises which were only 2 or 3 doors away and a few on the same stretch of road.
- b) That the services were at breaking point and another licensed premises would have a negative impact on businesses in the area and residents.
- c) There had been up to 10 people outside his office drinking and causing nuisance.
- d) They completely opposed the licence.

Another representative of Soho Road BID, Bob Baloo, made some additional comments: -

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- a) That he was the chairman for the BID.
- b) They were experiencing massive issues.
- c) Licensed premises were selling alcohol which was then being consumed on the streets at all hours, including early morning. This was causing a negative impact on Soho Road.
- d) He had been attacked by street drinkers.
- e) It was a major issue.
- f) That he could not see any positive reason to grant the licence.
- g) That limiting the hours wouldn't help as the premises wouldn't follow it.
- h) They were having issues with the police as they weren't coming out and doing anything. WMP just hadn't got the resources, so everyone was getting 'away with murder' on Soho Road.
- i) That he had emailed Licensing and Trading departments of Birmingham City Council but they weren't doing anything. They took photos daily of the issues and still nothing was being done.
- j) There was no duty of care, the premises in the area were regularly serving to drunks.

In answer to Members questions Rakesh Somi made the following points: -

- a) They were concerned for their staff's safety so were looking at employing security staff.
- b) That they had never seen the area so bad.
- c) They weren't being listened to.
- d) That they had a blanket policy not to support applications in the area.

The chairman invited the representatives of Soho Road BID to make a closing submission, at which stage Rakesh simply stated that the area had worsened in 12 months with a significant increase in anti-social behaviour. The area was suffering from alcohol related issues and this premises would add to it.

Then the Chairman invited WMP to make their closing submission at which stage PC Rohomon made the following points: -

- That there were 6 other licensed premises within Holyhead Road and a further 11 beyond Holyhead Road on Soho Road. All of which were off licences only.

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- That the frustrations from the BID were justified, they were getting more and more concerned about the amount of alcoholism in the area and were even considering private security to protect themselves.
- The local police officer did not want this licence granted due to the extent of the problems in the area.
- The premises was small and proposed a high density of alcohol.
- There were no grounds to grant the application.

At this stage the meeting was adjourned in order for the Sub Committee to make a decision and all parties left the Teams meeting. The Members, Committee Lawyer and Committee Manager conducted the deliberations in private and decision of the Sub-Committee was sent out to all parties as follows: -

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RESOLVED:-

That the application by Nawzad Ahmed for a premises licence in respect of European Mini Market, 205 Holyhead Road, Handsworth, Birmingham B21 0AS, **BE REFUSED**. In reaching this decision, the Sub-Committee was mindful of the promotion of the licensing objectives in the Act, particularly the prevention of crime and disorder.

The Sub-Committee's reasons for refusing this application for a premises licence are due to concerns expressed by West Midlands Police and by the management of the Soho Road Business Improvement District, both of whom addressed the Sub-Committee regarding the impact of the proposed operation on the particular locality of the premises, namely an area fraught with social problems and lawlessness.

At the start of the meeting West Midlands Police confirmed that they had received an email from the applicant confirming that he would not be attending the meeting. No such email had been received by the City Council.

The Police referred to the hand-drawn Plan of the premises submitted by the applicant, which was included in the Report. The Plan showed that within the small convenience store, there was only 21ft of trading space. Within the trading space, the majority of the area was taken up by a large beer fridge and further shelving for wines, cigarettes and other alcohol. Only a small area was marked on the Plan as 'groceries'. It was therefore to be assumed that the premises would be dependent on alcohol sales to be viable. The sale of groceries would be ancillary to the sale of alcohol. Unfortunately the applicant had not attended the meeting, and so the Sub-Committee had to take the Plan at face value, without the opportunity to ask questions of the applicant about the detail of his proposals for the sale of alcohol.

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The Police had also submitted statements from three Police Sergeants from the neighbourhood policing team, who dealt regularly with the area. These statements gave a detailed account of the disproportionate amount of crime, antisocial behaviour, street drinking, drug use, rough sleeping and aggressive begging (all of which were alcohol related), and also an increase in the presence of sex workers, in and around Soho Road. These problems were persisting despite the imposition of a Public Space Protection Order in 2017. One of the Police Sergeants observed that residents in the vicinity had complained to Police that they were “afraid to go shopping” and that they had “never seen Soho Road so bad”.

The Police considered that the application was of a poor standard and noted that it had failed to address local issues. There was nothing in the application to show that the applicant understood either the area in which he wished to operate, or the impact that a new alcohol-licensed premises would have; nor had the applicant attended the meeting so that the Sub-Committee could ask questions. Three senior Police Officers had confirmed that they were struggling to deal with crime in the area as it was. The applicant’s own Plan showed that the vast majority of the shop floor would be used to display alcohol; from this it was obvious that the business would be dependent on alcohol sales, which would inevitably put the licensing objectives at risk. It was therefore the recommendation of the Police that the application be refused.

Two members of the Soho Road BID management team then addressed the meeting and wholeheartedly supported the Police representations. They stated that the area was “at breaking point” and confirmed that all of the problems outlined by Police were predominantly caused by alcohol. They felt that the area had badly deteriorated in recent times. One of the BID management team, a person whose family had been local residents for sixty years, remarked that he viewed the current situation with crime and antisocial behaviour as “worse than the riots” [the Handsworth Riots of some decades ago]. There had even been talk of engaging private security guards to try to gain some control of the area.

The BID management team was particularly worried about the style of operator, noting that some current operators in and around Soho Road showed a lack of responsibility – for example, the levels of antisocial behaviour rather suggested that some local shops were prepared to sell alcohol to customers who were already drunk. The Sub-Committee agreed that management style was of paramount importance in any ‘difficult’ area; it was therefore very unfortunate that the applicant had not attended the meeting to address the Sub-Committee directly – particularly given that the applicant’s own Plan showed that such a high percentage of shop floor space was to be used for alcohol.

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The Sub-Committee carefully considered the operating schedule put forward by the applicant, and the likely impact of the application, but was not confident that either the applicant or the proposed operation of the premises could uphold the licensing objectives in the Soho Road area, for an obvious reason – the applicant had not attended the meeting to address the Sub-Committee. The operating schedule as submitted was not satisfactory for an area with the type of issues seen in and around Soho Road. Increased availability of alcohol in the Soho Road vicinity would inevitably undermine the licensing objectives, unless the licence was carefully conditioned to mitigate the concerns raised by those making representations. However, the Sub-Committee found itself unable to properly assess the additional conditions required without any opportunity to hear from the applicant.

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 contained in the application, the written representations received and the submissions made at the hearing 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.

Please note, the meeting ended at 1535.