

# BIRMINGHAM CITY COUNCIL

<b>LICENSING SUB-COMMITTEE B 24 OCTOBER 2017</b>
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## **MINUTES OF A MEETING OF LICENSING SUB-COMMITTEE B HELD ON TUESDAY, 24 OCTOBER 2017 AT 1000 HOURS, IN COMMITTEE ROOM 1, COUNCIL HOUSE, BIRMINGHAM**

**PRESENT:** - Councillor Dring in the Chair;

Councillors Buchanan and Beauchamp

### **ALSO PRESENT**

Shaid Yasser – Licensing Section  
Joanne Swampalli – Legal Services  
Katy Poole – Committee Services

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### **NOTICE OF RECORDING**

01/241017 The Chairman advised the meeting, and the Sub-Committee noted, that members of the press/public may record and take photographs except where there were confidential or exempt items.

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### 02/241017 **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

Councillors Dring, Buchanan and Beauchamp attended as nominee members for Councillors Clinton, Ali and Flood respectively.

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### **MINUTES**

03/241017 The Minutes of the meeting held on 22 August 2017, having previously been circulated, were confirmed and signed.  
The Minutes of the meeting held on 19 September 2017 were noted.  
The Minutes of the meeting held on 26 September 2017, having previously been circulated, were confirmed and signed.

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**LICENSING ACT 2003 PREMISES LICENCE - GRANT - GREET SERVICE  
STATION, 372 WARWICK ROAD, BIRMINGHAM, B11 2HA**

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

(See document No. 1)

The following persons attended the meeting.

**On behalf of the applicant:**

Maruthan Sabaparthi – Applicant

John Mathukumar – Designated Premises Supervisor

Geoff Dixon – Manchester Licencing Trading, representing the applicant

**Making Representations in respect of the application**

Iqbal Mazher – Local Resident

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

In response to members questions Mr Geoff Dixon, Mr Maruthan Sabaparthi and Mr John Mathukumar made the following points:

1. That he was not the agent who made the previous representations, he was a new representative.
2. That Mr Sabaparthi was aware that anti-social behaviour had been a concern in the local area.
3. That his client already operates 24 hours running a large convenience store, therefore the alcohol licence, will be an add on.
4. That he was not convinced the objectors had fully understood and read the application as they had addressed the issue of crime and disorder in the application.
5. That for the last 6 months Mr Sabaparthi had been the Premises Licence Holder.
6. That the Designated Premises Supervisor had developed training programmes for all staff.
7. That the premises was secure after 10pm. No one is able to get into the store, it is a window operating system after 10pm. This also makes it easier to do ID checks.
8. That there were no objections from any responsible authorities.

9. That they want to work with the community and objectors regarding their issues surrounding anti-social behaviour.
10. That they did not want to work against anyone, this was a responsible application.
11. That they want to sell alcohol 24 hours a day.
12. That they have been operating these hours since 2016 and had no issues with anti-social behaviour. In addition, the service station has been there nearly 20 years.
13. That the window is in operation from 10pm to 6am.
14. That there will only be one member of staff during the night shift.
15. That they have installed safety measures such as panic button, CCTV, Fire alarm. In addition, they also have refusal books, and provide staff with all training.
16. That the area is well lit and the Service Station has extensive lighting.
17. That the external CCTV can be monitored to ensure there is no anti-social behaviour occurring.
18. That if anything occurs during the night; any problems, they just ring the police.
19. That the customers must pay for fuel prior to filling up during the night.
20. That the premises have to keep themselves well managed in order to avoid anti-social behaviour.
21. That the reasons for them wanting to sell alcohol are in order to complete the convenience aspect of their store. They don't want to limit customers; they want to offer convenience so they do not go somewhere else.
22. That document 23 was a plan of the premises and displays the window. The window is completely safe no one is able to get in.
23. That the window also has a nightment hatch, which only allows for one bottle of wine or 4 cans of lager.
24. That alcohol was not a necessity but it would enable them to complete the convenience aspect of the store.
25. That there was another service station over the road; ESSO. It also operates 24 hours and sells alcohol during those hours.
26. That it was also a matter of competition. It will open a new line of business.

Members drew attention to Document 25 and raised concerns about the three local schools.

In response to Members questions Mr Dixon made the following points;

1. That the precautions for children would be the same measures as anyone selling alcohol would put into practice.
2. That usually the children come into the store with parents, rarely on their own.
3. That hardly any are older teenagers.
4. That they do not have any anti-social behaviour associated with children. They usually come to buy sweets with parents.
5. That the application had been in front of all the authorities and is antisocial behaviour with children had been a concern, West Midlands Police, Environmental Health or other child agencies would have raised concerns.
6. That it was a very competitive market and if other businesses were disadvantaging them they needed to ensure they do things to improve productivity.
7. That Mr Sabaparthi had been managing the company 1.5 years and the DPS had 7 years' experience.
8. That there will be 2 staff on the day shift and a manager.

That in response to the Members questions Mr Iqbal Mazher made the following points;

1. That next door was an off license that was very noisy; and fights would break out.
2. That there were lots of people going there drinking and smoking.
3. That police sometimes attend.
4. That there had not been any problems with this store.
5. That people buy alcohol and drink it in his road.
6. That the local children can cause problems at night time.
7. That his road was next door to the garage.
8. That he assumes they are drinking, but cannot be sure.
9. That he thought this premises would make it worse.

10. That the local children come down side roads, mostly 13, 14, 15yos.

11. That there were no issues with adults drinking in the street.

In summing up, Mr Mazher made the following points:

1. That there was a petition that people in his road had signed.

Members addressed Mr Mazher advising him that the petition had been included in the documentation submitted and that they had seen and noted the petition.

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

1. That the issues Mr Mazher raised were not an alcohol related problem, but actually a social problem.

2. That safeguarding was very strong in the application.

At 10:41 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 11:15 hours all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

04/241017 **RESOLVED:-**

That the application by Maruthan Sabapathi for a premises licence in respect of Greet Service Station, 372 Warwick Road, Birmingham, B11 2HA 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:

All those matters detailed in the proposed Operating Schedule shall apply, AND IN ADDITION:

- Between the hours of 2200 and 0600 daily, alcohol sales shall be conducted via the service window only

The relevant mandatory conditions under the Licensing Act 2003 will also form part of the licence issued. The applicant should note that the procedure to safeguard against underage sales shall be the Challenge 25 Scheme.

The Sub-Committee's reasons for imposing these conditions are due to the submissions made by another person regarding the potential impact of the proposed operation, and the likelihood of public nuisance, and/or risk to the protection of children from harm arising from the operation of the premises. The comments of the other person related to anti-social behaviour in the area; however this could not be linked to the instant premises.

The Sub-Committee therefore determined that granting the Licence with suitable conditions would be sufficient to allay any apprehension about perceived risks.

The Sub-Committee carefully considered the operating schedule put forward by the applicant and the likely impact of the application, but did not accept that there was evidence of a significant public nuisance, risk to crime and disorder, or risk to children arising from the proposed operation of the premises. The premises were already open 24 hours a day as a service station with convenience store attached; the application sought simply to add alcohol to the products on offer to customers. Other alcohol-licensed service station premises are already operating at a site directly on the opposite side of the road, without causing any increase in crime, disorder or antisocial behaviour; the applicant therefore also wished to offer alcohol, in order that another business in the vicinity should not have a competitive advantage.

No representations had been made by the Responsible Authorities about any aspect of the application. The applicant was an experienced person who trades elsewhere (namely Wolverhampton); the proposed Designated Premises Supervisor (DPS) was also an experienced cashier. Both the applicant and the proposed DPS attended the meeting and reassured the Sub-Committee that they took their responsibilities seriously; both stated that they had no intention of allowing the premises to encourage or contribute to anti-social behaviour or nuisance, and were keen to ensure that the operation of the premises should uphold the licensing objectives.

Notwithstanding this, the Sub-Committee considered it a sensible precaution to impose a condition requiring the use of a serving window at night after the DPS explained that such a feature promoted the licensing objectives by allowing staff to ensure that customers were not intoxicated, and/ or were not underage, before deciding whether to serve them or not via the serving hatch.

The Sub-Committee also imposed a Challenge 25 condition (to give greater protection to children from harm, as per the licensing objective). This was especially important given the proximity of local schools, which the applicant stated were junior schools. The Sub-Committee was reassured by the statement from the applicants that children did not generally come to the shop by themselves, but tended to arrive in cars driven by their parents, who would then accompany them into the shop. Moreover, inside the shop, food which would appeal to children, such as crisps and confectionery, were positioned away from the alcohol products.

All the other conditions proposed by the applicant on the Operating Schedule (including varied matters such as the CCTV arrangements, the panic button for use by staff, and the refusals book) were satisfactory. These therefore form part of the conditions of the Licence. 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 latest Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the information in the application, the written representations received and the submissions made at the hearing by the applicant, their adviser, and by another person who attended to make 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.

05/241017 **OTHER URGENT BUSINESS.**

There were no matters of urgent business.

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06/241017 **EXCLUSION OF THE PUBLIC**

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:-

Minutes – Exempt Paragraphs 3 and 4.

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CHAIRMAN