

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A

MONDAY, 26 NOVEMBER 2018 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

3 - 12

4 MINUTES

To note the public part of the Minutes of the meeting held on 12 November 2018.

5 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.

6 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:-

Exempt Paragraph 3

PRIVATE AGENDA

1 MINUTES

To note the private part of the Minutes of the meeting held on 12 November 2018 and to confirm and sign the Minutes as a whole.

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

Report of the Director of Regulation and Enforcement.

(Paragraphs 1 & 7)

3 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 A – 12 NOVEMBER 2018

**MINUTES OF A MEETING OF
LICENSING SUB-COMMITTEE A HELD
ON MONDAY 12 NOVEMBER 2018
AT 0930 HOURS IN ELLEN PINSENT ROOM,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair;

Councillors Bob Beauchamp and Martin Straker-Welds.

ALSO PRESENT:

Shaid Yasser – Licensing Section
Joanne Swampillai – Legal Services
Katy Poole – Committee Services.

NOTICE OF RECORDING

- 1/121118 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

- 2/121118 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 are 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

- 3/121118 No apologies were submitted.

4/121118 **MINUTES**

That the public part of the Minutes of meeting held on 1 October 2018 were noted.
That the public part of the Minutes of meeting held on 15 October 2018 were noted.

LICENSING ACT 2003 PREMISES LICENCE – GLOBAL FOOD MARKET, 90-92 OXHILL ROAD, HANDSWORTH, B21 9RH

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

Kemal Guler – Applicant
Hayirola Berkpinar - Agent

Those making representations

No one making objections attended the meeting.

* * *

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

In response to questions from Members of the Sub-Committee, Mr Hayirola Berkpinar, on behalf of the applicant, made the following points:-

1. That they had tried to contact the members of the public who made objections, however, they had not got back to them and therefore, they were here today.
2. That Mr Guler was a personal licence holder. They intended to uphold the licensing objectives.
3. They had installed CCTV, changed staff, had signs made, had a policy that no children, unless accompanied by an adult, after 2300 hours.
4. They were putting in “extra measures” to protect “kids” from harm.
5. That if children hang around and cause a nuisance, they won’t be allowed in the store.
6. That he came from Liverpool (agent) and kids hang around late at night. So if below 14 years of age they must be accompanied by an adult.
7. They would place signage around the store to ask customers to leave quietly, and not play loud music in cars.
8. That they would dispose of litter during opening hours. They would make sure the disposal of bottles would be quiet, to ensure residents had little disruption.

9. That the premises was currently occupied, but not operating.
10. That there was an issue in September with anti-social behaviour. They were not sure about the details, but the police were involved.
11. The incident was not at the premises, but in the local area.

In response to Members questions, Mr Kemal Guler, made the following points:-

1. He had made been doing this for 6 years. He ran a restaurant, and was a licence holder there also.
2. That there had been no issues with anti-social behaviour at the restaurant.
3. That the premises would be operating as a supermarket, with vegetables outside.
4. More of a family supermarket than an alcohol store.

Mr Hayirola Berkpinar, on behalf of the applicant, made the following points:-

1. That they had taken measures to ensure nothing would contribute to anti-social behaviour.
2. That the restaurant was on the corner, and this premises was a few doors down.
3. That strong alcohol would be behind the counter.
4. It would be stored under shelving and in locked cabinets.
5. That they would start later in the morning, like 11/12.
6. That he advised them to change the hours, but they didn't.
7. They would change them, but they would like the hours they have applied for.

At this stage in the meeting, Mr Guler made the following points:-

1. That the features in the shop were all done, they were just buying stock.
2. That deliveries would be before 1700 hours, and they had access to the shop from the side.
3. They have 1 parking space and then customers would park on the road, which had no restrictions.
4. That he would be DPS.
5. That if someone looked drunk they would not be served.
6. They will have refusals books.

7. They had no communication with police.

Mr Hayirola Berkpinar, on behalf of the applicant, made the following points:-

1. That he had submitted the application to all authorities and nothing had come back from them.
2. That they had a panic button.

Mr Guler continued:-

1. That they had a large space at the front of the shop for vegetables.
2. The vegetables would be removed before they closed, but they would start to take them in a couple of hours before 0300 hours.
3. That it was not taking up any of the pavements.
4. That they would have 1 cashier, but a minimum of 3 people in the shop, it was a large space.
5. No late night deliveries.
6. That they did not see many students in the area, the students mainly used to main road shops.
7. They would sometimes see school children at the end of the day.
8. They were not sure about any incidents of anti-social behaviour at other local premises.
9. From 2011-2016 he had not had any problems with anti-social behaviour at the restaurant or at the other shop.
10. That they were friends with the customers and knew them well. When the customers are friends with them they don't misbehave.
11. That the other shop was only selling alcohol, so there were a few issues, but it was open until 0400 hours.
12. Employees would look out for mess outside the premises and clear it up.
13. Beers and wines would be stored in the coolers and have shutters.
14. Tobacco would be stored behind the counter.
15. That they suggested the times the requested in the application, but would negotiate.
16. They suggested the Members considered a 6 month grant to see how it went.

17. They would consider 0700 – 0100 hours.

At 1022, the meeting was adjourned. All parties with the exception of Members, the Committee Lawyer and Committee Manager left the meeting.

At 1044 the meeting was reconvened and all parties were invited back into the meeting room and the decision of the Licensing Sub-Committee was announced as follows:-

5/121118 **RESOLVED:-**

That the application by Mr Kemal Guler for a premises licence in respect of Global Food Market, 90-92 Oxhill Road, Handsworth, B21 9RH **BE GRANTED**, with the daily hours for the sale of alcohol by retail to be from 09:00 hours to 00:00 hours (midnight), and the daily opening hours for the premises to be 06:00 at the earliest, and 03:00 at the latest.

The Sub Committee deliberated the operating schedule put forward by the applicant and the likely impact of the application, and concluded that by granting this application with curtailed hours for alcohol sales, the four Licensing Objectives contained in the Act will be properly promoted.

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 representations made by other persons but were not convinced that there was an evidential and causal link between the issues raised and the effect on the Licensing Objectives. The risks relating to anti-social behaviour could be dealt with by reducing the hours for alcohol sales. This would also ensure that the protection of children from harm objective would be upheld.

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 and their adviser.

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 – KANI MINI MARKET, 27-29 GROVE LANE, HANDSWORTH, B21 9ES

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

Dana Arif – Applicant
Geoffrey Dixon - Agent

Those making representations

No one making objections attended the meeting.

* * *

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

In response to questions from Members of the Sub-Committee, Mr Geoffrey Dixon, on behalf of the applicant, made the following points:-

1. That he wanted the first objection put aside, it was from a licence holder and it was regarding competition.
2. That it was a straightforward application, 0700 – 2300 hours.
3. There were no representations from responsible authorities.
4. The premises was subject to a visit from licensing in September and there were no issues.
5. That the objections did not address the licensing objectives.
6. That the objections raised concerns for no reason at all, no background, no evidence of anti-social behaviour, and other venues had longer opening hours than this application.
7. That the repeat concerns about children being in the shop did not address the licensing objectives.
8. They had CCTV internally and externally; a recommendation from WMP.
9. It will be recorded at all times and kept for 21 days.

10. The shop was fully alarmed with security shutters.
11. Staff will be fully trained.
12. Mr Arif was a personal licence holder and would be the DPS.
13. They had solved the provision for litter but purchasing a second bin.
14. They had an under 25 policy in place and a work book.
15. That training records and refusal records were already in place.
16. The premises would operate a proof of age scheme.
17. That the alcohol would be situated away from the non-alcoholic items.
18. That there would be 2 staff.
19. That they don't have a panic alarm, but they have a local premises plan in place to radio through to each other. They also call 999 if any problems happen.
20. They have 2 parking spaces and a car park behind the premises that belongs to the council; there is also a car park across the road.
21. The alcohol would be on display close to the staff, opposite the till.
22. The strong spirits would be behind the till, the customers cannot access that.
23. The alcohol fridge was fitted with shutters.
24. The shop had been operating as a convenience store for a year.

Mr Dana Arif made the following points:-

1. That there had been no incidents in the shop in 12 months since he had been there, but he was unsure if there were any problems before him.
2. That the area was a tough area, a rough area, with problems, but he had not experienced any problems.
3. The landlord lived at the premises with his family.
4. That the premises would be completely different from the other local stores, and would be selling British and European produce.

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

1. That they needed to educate children around alcohol sales, not just shut it off.
2. That it was about control.

3. That restricting businesses selling alcohol was what he was concerned about.
4. That the shop would be trying to appeal to a different section of the community.
5. That high percentage beers and ciders and single can sales would not take place at the store.
6. That in relation to the CCTV the application was submitted by another company that he knew very well, and therefore, if they said the CCTV was done to police standards, he thinks they would have been. Police did visit and check.
7. That they would keep the CCTV for however long the police wanted, they thought it was now 14 days as the clarity of the image was better.
8. That they would have Challenge 25 posters on the door and behind the till in prominent positions as a reminder to customers and staff.
9. That the application was not aimed at attracting the wrong type of customers.

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

1. That the objectors had not attended to back up their arguments and answer Members questions.
2. The application was strong.
3. That they had answered all questions.
4. They had training in place, strong protection policy for children, and a ring around security plan in local area, and they had passed inspections.
5. That the objections weren't based on anything other than collusion and competition.
6. That he would ask that the licence be granted.

At 1138, the meeting was adjourned. All parties with the exception of Members, the Committee Lawyer and Committee Manager left the meeting.

At 1200 the meeting was reconvened and all parties were invited back into the meeting room and the decision of the Licensing Sub-Committee was announced as follows:-

6/121118

RESOLVED:-

That the application by Dana Mahmud Arif for a premises licence in respect of Kani Mini Market, 27-29 Grove Lane, Handsworth, Birmingham, B21 9ES **BE GRANTED.**

The Sub Committee deliberated the operating schedule put forward

Licensing Sub-Committee A – 12 November 2018
by the applicant and the likely impact of the application, and
concluded that by granting this application, the four Licensing
Objectives contained in the Act will be properly promoted.

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 representations made by other
persons but were not convinced that there was an evidential and
causal link between the issues raised and the effect on the
Licensing Objectives. The requested hours were in line with those of
other premises in the area.

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, and his adviser.

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.

7/121118 **ANY OTHER URGENT BUSINESS**

There were no matters of urgent business.

EXCLUSION OF THE PUBLIC

8/121118 **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)
