

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C 16 DECEMBER 2020

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 16 DECEMBER 2020 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Mike Leddy in the Chair;

Councillors Martin Straker-Welds and Mary Locke.

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

1/161220 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.

2/161220 **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

3/161220 Apologies were submitted on behalf of Councillor Neil Eustace and Councillor Mary Locke was the nominated Member.

MINUTES

4/161220 The Minutes of meeting held on 26th August, 9th September and 23rd September 2020 were circulated, confirmed and signed by the Chairman.

**LICENSING ACT 2003 PREMISES LICENCE – VARIATION – SELECT
XPRESS, 1164-1166 WARWICK ROAD, ACOCKS GREEN, BIRMINGHAM, B27
6BS**

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

(See document No. 1)

On Behalf of the Applicant

Naga Rajesh – Agent
Vanniyasingam Gunaseelam – Applicant

Those Making Representations

No one attended.

* * *

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

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

Afterwards, the Chairman invited the applicant or their representative to outline their application, Naga Rajesh made the following points: -

- a) That his client was an experienced operator and had managed a premises with a 24 hour licence before.
- b) His client also held a personal licence and had an excellent track record.
- c) They had proposed a number of conditions in order to promote the licensing objectives. In addition, they had also agreed conditions with West Midlands Police (WMP).
- d) That the premises was Covid safe and all measures were in place.
- e) All the Covid risk assessments had been done and approved by WMP as part of the application.

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- f) The email from the WMP officer indicated that they were happy with the application, and with the agreed conditions the licensing objectives would be met.
- g) No other licensed premises in the area had such stringent conditions.
- h) His client was actively involved with the neighbourhood watch team.
- i) That had taken extended measures in order to promote the licensing objectives.
- j) There was already a premises with a 24 hour licence close by.
- k) That two residents had concerns, however if there were any issues in relation to crime and disorder or anti-social behaviour WMP would have made a representation.
- l) No persons under 18 would be allowed in the premises unless accompanied by an adult.
- m) That the premises wasn't that close to the school and they were already licensed during school times.
- n) They were not breaching any guidance and were Covid safe.
- o) The premises was not trading 24 hours currently.
- p) They had put measures in place to promote the licensing objectives.
- q) It was not a standard convenience store, it was big.

In answer to questions from Members Naga Rajesh, on behalf of the applicant made the following points: -

- a) The conditions from WMP were in addition to the conditions they already had.
- b) The premises was a big convenience store which did get very busy.
- c) There would always be at least one Manager on duty.
- d) The shop sold groceries and other items.
- e) The school was at least a 10-minute walk from the premises.
- f) His client had invested a lot of money into the premises and he needed to extend the hours in order to survive.
- g) His client took over the premises in October.

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Members asked further questions which were answer by the applicant, Vanniyasingam Gunaseelam: -

- a) That alcohol sales made up about 30% of the overall sales.
- b) That there had been a few refusals recorded but he couldn't remember the exact number.

In summing up Naga Rajesh, on behalf of the applicant made the following points:
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- That his client had invested a lot of money into the premises and was relying on bigger sales.
- His client desperately needed the licence.
- There was no evidence to suggest that granting the application would undermine the licensing objectives.
- There were no representations from any of the responsible authorities.

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: -

5/161220

RESOLVED:-

That the application by Vanniyasingam Gunaseelan to vary the premises licence in respect of Select Xpress, 1164 – 1166 Warwick Road, Acocks Green, Birmingham, B27 6BS under section 34 of the Licensing Act 2003 **BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS** which were agreed between the applicant and West Midlands Police in advance of the meeting:

- CCTV that is approved by West Midlands Police and able to capture images particularly outside under conditions of low lighting will be fitted in the premises. Images will be retained for a period of at least 31 days and will be made available to any of the responsible authorities to view or copies produced on request. If for any reason the CCTV hard drive needs to be replaced the previous/old hard drive will be kept on site for a minimum of 31 days and made immediately available to any of the responsible authorities on request
- All staff will receive training in the Licensing Act 2003, the licensing objectives, and in relation to CSE and their role in combatting this. No staff will work at the premises until this training has been completed and the required refreshments have been completed. Refresher training should take place

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once a year

- All staff Licensing Act 2003, licencing objective and CSE training will be documented and signed by both the trainer and trainee. No staff to work at the premises until this training has been completed. Training records to be made available to any of the responsible authorities on request
- No persons will be allowed into the premises if 18 years old or younger unless they are accompanied by an adult between 2300 and 0500 hours
- A Challenge 25 policy will be operated by the premises with notices informing customers of the policy. The only forms of acceptable identification shall be a photographic driving licence, a valid passport, a recognised form of photographic identification incorporating the PASS logo or a valid military identification. Notices will be displayed in the premises stating this
- An Incident/Refusals Book will be maintained at the premises and made available to any of the appropriate authorities on request
- Single cans or bottles of beers, ciders and alcopops of less than 75ml or plastic cups to accompany purchases of alcohol are not to be sold
- A list of persons that cause issues will be maintained by the premises and the management will not serve alcohol or tobacco products to these individuals at any time. This list can be populated by the management or any other responsible authorities
- The management will take part in local neighbourhood watch or similar schemes

The Sub-Committee's reasons for imposing the agreed conditions were due to the submissions made by the applicant via his agent. It was noted that the applicant had engaged in talks with West Midlands Police prior to the hearing; in light of the proposed measures, no objection had been made by the Police. The applicant was an experienced person with a Personal Licence, who had held 24-hour alcohol licences elsewhere. He understood the local area and had invested in the business, for example by carrying out a complete refurbishment.

The proposed conditions satisfactorily addressed the issues raised by the two persons whose objections were in the Report. These objections had been made regarding the impact of the proposed operation on the local area. Whilst the Sub-Committee noted these objections, there was nothing to suggest that the applicant would not be able to uphold the licensing objectives. Moreover, the Select Xpress premises would not be the only 24-hour licensed premises in the vicinity.

The Sub-Committee carefully considered the operating schedule put forward by the applicant and the likely impact of the application,

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but did not accept that there was evidence of a significant risk to the licensing objectives arising from the proposed operation of the premises. The concerns of the two other persons were taken into account by imposing the agreed conditions, which were more than sufficient to allay their apprehensions. The Sub-Committee considered the conditions imposed to be appropriate, reasonable and proportionate to address those concerns.

In addition to the above conditions, those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under s182 of the Licensing Act 2003 by the Secretary of State, the information in the application, the written representations in the Report, and the written and oral representations made at the hearing by the applicant and his agent.

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 1147.