

# BIRMINGHAM CITY COUNCIL

<b>LICENSING SUB – COMMITTEE B 26 MARCH 2019</b>
--

## **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 5<sup>th</sup> March 2019 were noted.
-

**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

\* \* \*

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 5<sup>th</sup> 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 24<sup>th</sup> 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.

.....  
CHAIRMAN