

BIRMINGHAM CITY COUNCIL

LICENSING
SUB-COMMITTEE B,
TUESDAY 27 AUGUST,
2024

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY 27 AUGUST, 2024 AT 1200 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Saddak Miah in the Chair;

Councillors Sam Forsyth and Diane Donaldson.

ALSO PRESENT

Bhapinder Nandhra – Licensing Section
Joanne Swampillai – Legal Services
Katy Poole - Committee Services

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

1/270824 **NOTICE OF RECORDING/WEBCAST**

The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's meeting You Tube site (www.youtube.com/channel/UCT2kT7ZRPFCXq6_5dnVnYlw) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2/270824 **DECLARATION OF INTERESTS**

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting.

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

Licensing Sub-Committee B – 27 August 2024

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/270824 Apologies were submitted on behalf of Councillors Adam Higgs and Sybil Spence and Councillors Sam Forsyth and Diane Donaldson was the nominated substitute Member.

MINUTES

4/270824 The Public section of the Minutes of the meeting held on 25 June 2024 at 1000 hours and 2 July 2024 at 1000 hours were circulated and confirmed and signed by the Chair.

LICENSING ACT 2003 PREMISES LICENCE – GRANT – GEORGE'S BARGAINS, 1058 YARDLEY WOOD ROAD, BILLESLEY, BIRMINGHAM, B14 4BW.

5/270824 The following report of the Director of Regulation and Enforcement was submitted:-

(See document no. 1)

On behalf of the Applicant

Naga Rajesh – Agent
Yasotharan Sritharan – Applicant

On Behalf of Those Making Representations

Kishok Vijayakumar

* * *

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 Chair outlined the procedure to be followed at the hearing and invited the Licensing Officer to present the report. Bhapinder Nandhra, Licensing Section, outlined the report.

Licensing Sub-Committee B – 27 August 2024

The Chair then invited the applicant to make their submission, Naga Rajesh on behalf of the applicant made the following points: -

- a) That the applicant had several years' experience within the trade and also held a personal licence since.
- b) He had worked in licensed premises in a Designated Premises Supervisor role and had been involved with the premises for more than a year.
- c) The premises was already open and trading as a convenience store. It was a family run business and the family relied upon the income.
- d) They already sold age restricted products in the form of Tobacco and had never had any complaints or issues at the premises.
- e) None of the responsible authorities had made any objections to the application.
- f) The customers had requested alcohol so they could continue to do their shopping at the premises and buy alcohol at the same time as groceries.
- g) They had made the application in a responsible manner and it would not undermine the Licensing Objectives.
- h) The only objection against the application was from a competitor who worked at a premises a few doors down. They believed that the applications was made on the basis of competition.
- i) Further, the objector was concerned about 'too many premises' in the area and did not want another licensed premises locally.
- j) That if the licence was granted it would be the only licence in the area with those measures and conditions.
- k) They had not requested additional hours.
- l) The Police were happy with the proposal.
- m) There was no evidence submitted by the objector to support their representation.
- n) The premises was not in a special policy area.
- o) Under the Licensing Act 2003 the premises could be reviewed if there were any issues.

The chair then invited the objector to make their case. Kishok Vijayakumar made the following points: -

- a) That he worked in the shop a few doors down and knew the problems off licences faced.

Licensing Sub-Committee B – 27 August 2024

- b) There were already nearly 5 licences in the area and as residents they did not want any more in the area.
- c) He did not own the shop a few doors down, he just worked there.
- d) Having worked in a shop he was aware of problems with alcohol.
- e) That they did not want another off licence in the area.

The chair then invited both parties to make a brief closing submission. Kishok Vijayakumar summarised that there were already 5-6 shops in the area selling alcohol and they did not want another one.

Naga Rajesh asked if he could ask questions to the objector. The Chair refused the request.

Naga Rajesh made the following closing statements: -

- a) That the objector's partner owned the shop but he was involved in the business.
- b) That there was no difference between someone buying alcohol at this premises or another premises – alcohol was still available whether the application was granted or not.
- c) They were only applying for an alcohol licence for the hours the shop was already open.
- d) They had submitted extra measures to ensure the Licensing Objectives would not be undermined.
- e) The applicant had been a personal licence holder for almost 20 years, the premises had no history of complaints or issues and no responsible authorities had objected to the application.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and, following the announcement of a short decision, a full written decision was sent to all parties as follows;

6/270823

RESOLVED:-

That the application by Yasotharan Sritharan for a premises licence in respect of George's Bargains, 1058 Yardley Wood Road, Billesley, Birmingham B14 4BW, be granted. Those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will also form part of the licence issued.

Licensing Sub-Committee B – 27 August 2024

The applicant attended the meeting in person, and was represented by a licensing agent. A written representation had been received from another person; this was in the Committee Report. That person also attended the meeting.

The agent confirmed that the applicant had a number of years of experience in the licensed trade, having been a personal licence holder since 2006. He had worked in various licensed premises as designated premises supervisor. He had been involved in the George's Bargains premises for more than a year, and he knew the area and clientele very well. He was a family man with young children.

The shop was his family business and his livelihood, and he was aware that the business relied on the local community for survival. He wanted a safe environment for customers and for the shop. The intention was not to focus solely on alcohol, as the premises was a convenience store which had been selling groceries for number of years.

The reason that the application had been submitted was because the premises had noted that it was losing customers who wanted to purchase alcohol as part of their grocery shopping. The applicant had received "constant requests" from his regular customers to start selling alcohol. He was therefore keen to be able to offer alcohol, to ensure the success of the business – but had ensured that the application was reasonable, and moreover that it would not undermine any of the licensing objectives. The Sub-Committee noted this.

The agent observed that the application included measures designed to promote the licensing objectives, with particular regard to the prevention of crime and disorder. The arrangements included a high quality CCTV system, and a lighting system in and around the premises. The recordings would be kept for a minimum of 30 days and would be shared with any of the responsible authorities if needed.

The public safety objective had been addressed via the latest fire safety measures. These had been installed in the premises. Customers were fully informed about all the safety procedures via clear signs displayed in a prominent place. Regarding the prevention of public nuisance, the premises would provide a bin. Furthermore, customers would be asked to leave quietly. The objective of the protection of children from harm had been considered. The premises was already selling age restricted products, namely tobacco. It therefore already had a Challenge 25 policy in place, and only accepted recognised forms of ID for age verification.

The staff would be fully trained in the sale of alcohol and tobacco products. This training would be refreshed at intervals. In addition, there was a till prompt which was activated whenever staff scanned an age restricted product, to remind them to check ID; the till prompt did not allow staff to proceed without completing the task. Moreover, all refusals would be recorded, and these records would be kept at the premises for inspection at any time.

The agent remarked that there were other measures on the operating schedule, but the ones he had outlined were the main ones. He observed that the applicant had voluntarily put comprehensive measures in the application. The Sub-Committee noted this.

Licensing Sub-Committee B – 27 August 2024

The agent confirmed that all of the responsible authorities had been happy with the application, and there had only been one written representation. The applicant felt that the person who had submitted the written representation was perhaps a competitor who had a licensed premises in Yardley Wood Road, a few doors away from the George's Bargains premises. Regardless of this, the applicant respected his concerns, and indeed had spoken to him, as he had known the person very well for some time.

The Sub-Committee was aware that, under paragraph 9.43 – 9.44 of the Guidance issued under s182 of the Act, there was a presumption to grant such applications unless there was good evidence of a risk to the promotion of the licensing objectives. The Sub-Committee therefore looked carefully at whether there was evidence that the proposed operation would in fact have an adverse effect on the licensing objectives.

The Members heard from the person who had made the written representation, who said that he “worked in the shop in a few doors away from George's Bargains”, and that he therefore knew the problems that the area faced. He stated that he only worked in the shop, and did not own the shop. He said that there were already other off-licence shops in the vicinity, and remarked that “to maintain the peace we don't want another off-licence in in our area”.

He remarked that, within visible distance from the shop where he worked, there were “nearly 56 shops”, and some of the alcohol-licensed retailers were permitted to operate across 24 hours. It was for this reason that he had submitted the representation. He stated that he did not want a new off-licence in the area because there were already other such premises nearby.

When summing up, the applicant's agent stated that whilst the other person had mentioned that he did not own the shop, it was thought that the other person was in fact involved in the business as his partner owned the shop. The agent went on to observe that if someone wanted to buy an alcohol from a premises at this location, it would not make any difference how many licensed premises there were nearby, selling alcohol. Alcohol was already available in the area.

He reminded the Sub-Committee that the application was simply to sell alcohol for the existing hours - the application was not for 24 hours. The proposed operation was not going to undermine the licensing objectives, and moreover it was not going to increase the number of people buying alcohol, as such persons already had other options to buy alcohol in the area.

When deliberating, the Sub-Committee noted that the operating schedule had been drafted with consideration of the licensing objectives, and there had been no objection from any responsible authority. This was reassuring in terms of the likely effect on the licensing objectives.

The Sub-Committee carefully considered the representations made by the other person, but the Members found that they were not persuasive. The hours requested by the applicant were very reasonable for the area. The Members were satisfied that the potential for the creation of public nuisance issues

Licensing Sub-Committee B – 27 August 2024

described by the objector had been sufficiently addressed. The robust operating schedule was focused on the promotion of the licensing objectives – as was the responsible style of trading proposed. It was noted by the Members that Environmental Health had not seen any likelihood of a risk to the prevention of public nuisance objective; indeed, none of the responsible authorities had made representations.

The extra measures to promote the licensing objectives had been carefully drafted. The agent had explained that in the parade of shops there were three licensed premises, and if granted, George's Bargains would be the fourth. Whilst the other person had said that the area did not "need" any further licensed premises, this was not a relevant consideration for the Sub-Committee. The shop was accustomed to selling age restricted products and had never failed on any past test purchase, and had never had any issues with any of the responsible authorities in the past. All of this was reassuring.

Even more importantly, the agent had confirmed that if the licence were to be granted, it would be the only licence in the area which had conditions on it to promote the licensing objectives. He had reiterated that operation was requested only for standard hours (not 24 hours).

The agent had remarked that the other person who made the objection had not provided any evidence to support his claim, and had simply made a generic statement, but the premises was not in any Special Policy Area or similar. The Sub-Committee agreed with this.

The Members were aware that relevant caselaw, namely *R (on the application of Daniel Thwaites plc) v Wirral Borough Magistrates' Court [2008] EWHC 838 (Admin)*, emphasised the principles laid down by the Licensing Act 2003 and its accompanying Guidance – namely that there should be light touch bureaucracy applied to applications for licences, and that restrictions should only be attached to premises licences where they were necessary to promote the licensing objectives. The Sub-Committee did not see that any extra measures were required, as all potential risks to the upholding of the licensing objectives had been addressed.

The Members also noted the agent's comment that if there were to be any issues, a Review of the licence could be called with a very short notice. Moreover, unlike any other premises in the vicinity, the George's Bargains licence would have conditions on it - making the premises accountable, and making any Review application easier.

The Sub-Committee was also impressed that the applicant was an experienced personal licence holder and had worked in the licensed trade for almost 20 years, with a good track record. The premises itself had a good history based on responsible selling of age restricted products. There were therefore no concerns from the Police. The sole objection was mainly based on the risks of crime and disorder, and public nuisance, but the responsible authorities were happy. The Sub-Committee was aware that the responsible authorities were the right people to make assessments, based on their expertise.

Licensing Sub-Committee B – 27 August 2024

The Members further noted that the shop was the applicant’s livelihood. The agent had reassured them that the applicant intended to uphold the licensing objectives. All in all, the Members were satisfied that trading would be safe, and noted that all areas of concern had been satisfactorily addressed. After careful consideration, the Sub-Committee determined that the application could safely be granted.

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 agent for the applicant, and by the other person.

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

7/270824

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:-

Exempt Paragraph 3.

Chair.....