

BIRMINGHAM CITY COUNCIL
LICENSING SUB-COMMITTEE B

Tuesday 19 December 2023 at
1000 hours as an On-Line Meeting,
Microsoft Teams

A G E N D A

1 NOTICE OF RECORDING/WEBCAST

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite, please click this link, <https://birmingham.public-i.tv/core/portal/home> and 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 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.

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.

3 APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

Attached

4 RE: PORTRAIT BAR, THE ARCADIAN, 70 HURST STREET, BIRMINGHAM
B5 4TD - PREMISES LICENCE NO: 222 – LICENSING ACT 2003 AS
AMENDED BY THE VIOLENT CRIME REDUCTION ACT 2006 -
APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENCE:
CONSIDERATION OF INTERIM STEPS

N.B. Application scheduled to be heard at 1000 hours.

Documents submitted:

- A. Certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003
- B. Application for Review of Licence
- C. Copy of Premises Licence
- D. Location maps

West Midlands Police have applied for an expedited review of the premises licence in respect of **Portrait Bar, The Arcadian, 70 Hurst Street, Birmingham B5 4TD - Premises Licence No: 222.**

The application has been made under Section 53A of the Licensing Act 2003 (as amended) and has been accompanied by a certificate signed by a senior member of the force, stating that in their opinion the licensed premises have been associated with serious crime and disorder. (See A and B above)

In accordance with the regulations, the licensing authority has given the premises licence holder and responsible authorities a copy of the application for review and a copy of the certificate.

This hearing has been arranged in order to consider whether it is necessary to take any interim steps in respect of the licence pending the determination of the review. The Premises Licence is included at item C.

The interim steps that must be considered at the hearing are:

- Modification of the conditions of the premises licence;
- Exclusion of the sale of alcohol by retail from the scope of the licence;
- Removal of the designated premises supervisor from the licence;
- Suspension of the licence

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.

West Midlands Police

CERTIFICATE UNDER SECTION 53A (1)(B) OF THE LICENSING ACT 2003

I hereby certify that in my opinion the premises described below are associated with serious crime and disorder

Premises: Portrait Bar,

Premise Licence Number: 222.

Premise Licence Holder: DXR Ltd.

Designated Premise Supervisor: Mr Rajvir Singh Bahia..

I am a Superintendent in West Midlands Police.

I am giving this certificate because I am in the opinion that the procedures under the Licensing Act are inappropriate in this case because the standard review procedures are thought to be inappropriate due to the seriousness of the crime, and the serious management failings of the premises concerned.

The actions of the management and staff involved in the premises where this incident has occurred casts serious doubt on their abilities to promote the licensing objectives.

In this incident a person has entered the premises which were open and conducting licensable activity in possession of a firearm. The person has then produced the firearm and it has been discharged within the premises causing injury to other persons.

Wounding with intent to cause grievous bodily harm is a serious crime by virtue of the maximum sentence being up to life imprisonment if a person is found guilty of this offence and warrants the use of this power. The offence has been committed in the presence of staff at the premises who are in a position of trust in the premises with a duty to promote the safety of the public and to prevent crime and disorder which they have failed to do.

I have considered the use of the normal review procedure but I do not feel this would be appropriate in these circumstances due to the above reasons, and the fact that to maintain the licensing objective of preventing crime and disorder the normal review procedure would not be sufficient.

The severity of the incident is a matter that needs to be brought to the attention of the Licensing Committee immediately.

I am conscious of the guidance on the use of "Expedited Reviews" and given the emphasis that is given to use of this power to tackle serious crime and disorder, my feelings that this process is deemed appropriate are further enforced.

Signed: Supt 9700 D.Twyford 18/12/23



PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary

I - Superintendent David Twyford

(on behalf of) the chief officer of Police for the West Midlands Police area apply for the review of a premises licence under section 53A of the Licensing Act 2003

1. Premises details: Portrait Bar.

Postal address of premises,(or if none or not known, ordinance survey map reference or description):

The Arcadian.

70, Hurst Street.

Post Town: **Birmingham**

Post Code (if known): **B5 4TD.**

2. Premises Licence details:

Name of premise licence holder (if known):

DXR Ltd..

Number of premise licence (if known):

222.

3. Certificate under section 53A (1)(B) of the Licensing Act 2003 (Please read guidance note 1)

I confirm that this is a certificate has been given by a senior member of the police force for the police area above that in his/her opinion the above premises are associated with serious crime or serious disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

x

☐

4. Details of association of the above premises with serious crime, serious disorder or both:
(Please read guidance note 2)

Portrait is a licensed premises situated at The Arcadian, 70, Hurst St. Birmingham. B5 4TD. The premises license holder is DXR Ltd and designated premises supervisor is Mr Rajvir Singh Bahia.

The premises is licensed to sell alcohol for consumption on the premises between the hours of 1000 and 0400 hours on each day of the week.

At approximately 0035 hours Monday 18th December 2023 the premises were open and conducting licensable activity.

At this time an incident occurred whereby a firearm was produced and has been discharged within the premises causing injury to other persons.

This matter is two counts of wounding with intent to cause grievous bodily harm contrary to section 18 Offences Against The Persons Act 1861 which is a serious crime by virtue of the maximum sentence on conviction being life imprisonment.

West Midlands Police have serious concerns for the promotion of the licensing objectives at this premises.

A firearm has been in the premises and discharged showing current control measures at the premises to be inadequate and ineffective.

West Midlands Police have grave concerns over the operation of the premises which we want to bring to the committee's attention immediately.

This is such a serious incident and breach of the licensing objectives that West Midlands Police would request that the premises license is suspended and the Designated Premises Supervisor is removed.

Signature of applicant:

Date: 18.12.23.

Rank/Capacity: Superintendent

Contact details for matters concerning this application: BW Licensing

Address: Licensing Dept c/o Birmingham West and Central Police Station, Birmingham

Telephone Number(s):

E-mail

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly

state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more:or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious Disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder or both.

Licensing Act 2003
Premises Licence

Premises Licence Number	222
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Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description Portrait Bar, Units E107, 108, 109 & 110, Ladywell Walk, The Arcadian, 70, Hurst Street, B5 4TD
Telephone Number N/A

Where the licence is time limited the dates N/A

Licensable activities authorised by the licence Sale of Alcohol by Retail Provision of Late Night Refreshment Exhibition of a Film Indoor Sporting Events Performance of Live Music Playing of Recorded Music Performance of Dance Anything of a similar description to that falling within Live Music, Recorded Music and Dance

Times the licence authorises the carrying out of licensable activities

<u>Sale of Alcohol by retail:</u>		
<u>Day</u>	<u>Start Time</u>	<u>End Time</u>
Monday	10:00	04:00
Tuesday	10:00	04:00
Wednesday	10:00	04:00
Thursday	10:00	04:00
Friday	10:00	04:00
Saturday	10:00	04:00
Sunday	12:00	04:00
Place: Seasonal Variations: 12:00 - 02:30 Sundays preceding Bank Holiday (excl Easter Sunday) 12:00 - 15:00 Christmas Day 19:00 - 00:30 Christmas Day Non-Standard Times:		

<u>Provision of Late Night Refreshment:</u>		
<u>Day</u>	<u>Start Time</u>	<u>End Time</u>
Monday	23:00	04:00
Tuesday	23:00	04:00
Wednesday	23:00	04:00

BIRMINGHAM CITY COUNCIL

Thursday	23:00	04:00
Friday	23:00	04:00
Saturday	23:00	04:00
Sunday	23:00	04:00

Further Details:

Place:

Seasonal Variations: 12:00 - 02:30 Sundays preceding Bank Holiday (excl Easter Sunday) 12:00 - 15:00 Christmas Day 19:00 - 00:30 Christmas Day

Non-Standard Times:

Exhibition of a Film:

<u>Day</u>	<u>Start Time</u>	<u>End Time</u>
Monday	09:00	04:00
Tuesday	09:00	04:00
Wednesday	09:00	04:00
Thursday	09:00	04:00
Friday	09:00	04:00
Saturday	09:00	04:00
Sunday	09:00	04:00

Further Details:

Place:

Seasonal Variations:

Non-Standard Times:

Indoor Sporting Event:

<u>Day</u>	<u>Start Time</u>	<u>End Time</u>
Monday	09:00	04:00
Tuesday	09:00	04:00
Wednesday	09:00	04:00
Thursday	09:00	04:00
Friday	09:00	04:00
Saturday	09:00	04:00
Sunday	09:00	04:00

Further Details:

Place:

Seasonal Variations:

Non-Standard Times:

Performance of Live Music:

<u>Day</u>	<u>Start Time</u>	<u>End Time</u>
Monday	11:00	04:00
Tuesday	11:00	04:00
Wednesday	11:00	04:00
Thursday	11:00	04:00
Friday	11:00	04:00
Saturday	11:00	04:00
Sunday	12:00	04:00

Further Details:

Place:

Seasonal Variations:

Non-Standard Times:

BIRMINGHAM CITY COUNCIL

Playing of Recorded Music:

<u>Day</u>	<u>Start Time</u>	<u>End Time</u>
Monday	11:00	04:00
Tuesday	11:00	04:00
Wednesday	11:00	04:00
Thursday	11:00	04:00
Friday	11:00	04:00
Saturday	11:00	04:00
Sunday	12:00	04:00

Further Details:

Place:

Seasonal Variations:

Non-Standard Times:

Performance of Dance:

<u>Day</u>	<u>Start Time</u>	<u>End Time</u>
Monday	11:00	04:00
Tuesday	11:00	04:00
Wednesday	11:00	04:00
Thursday	11:00	04:00
Friday	11:00	04:00
Saturday	11:00	04:00
Sunday	12:00	04:00

Further Details:

Place:

Seasonal Variations:

Non-Standard Times:

Anything of a similar description to that falling within Live Music, Recorded Music or Dance

<u>Day</u>	<u>Start Time</u>	<u>End Time</u>
Monday	11:00	04:00
Tuesday	11:00	04:00
Wednesday	11:00	04:00
Thursday	11:00	04:00
Friday	11:00	04:00
Saturday	11:00	04:00
Sunday	12:00	04:00

Further Details:

Place:

Seasonal Variations:

Non-Standard Times:

The opening hours of the premises

<u>Day</u>	<u>Start Time</u>	<u>End Time</u>
Monday	10:00	04:00
Tuesday	10:00	04:00
Wednesday	10:00	04:00
Thursday	10:00	04:00
Friday	10:00	04:00
Saturday	10:00	04:00
Sunday	10:00	04:00

Seasonal Variations:

Non-Standard Times:

Where the licence authorises supplies of alcohol whether these are on and /or off supplies

For consumption on and off the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

DXR LTD
64 Great Hampton Street, Hockley , Birmingham , B18 6EL

Registered number of holder, for example company number, charity number (where applicable)

Company Number:14906644

Name and address of designated premises supervisor where the premises licence authorises the supply of alcohol

Mr Rajvir Singh Bahia

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Licence Number: CCDG/PLH/23/1477
Issuing Authority: Cannock District Council

Dated 30-09-2023

Shaid Yasser
Senior Licensing Officer
For Director of Regulation & Enforcement

Annex 1 – Mandatory Conditions

No supply of alcohol may be made under the premises licence (a) at a time when there is no designated premises supervisor in respect of the premises licence, or (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or (ii) drink as much alcohol as possible (whether within a time limit or otherwise)(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective; (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective; (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner; (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either (a) a holographic mark, or (b) an ultraviolet feature.

The responsible person must ensure that (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures (i) beer or cider: pint; (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and (iii) still wine in a glass: 125 ml; (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price. (2) In this condition:- (a) 'permitted price' is the price found by applying the formula $P = D + (D \times V)$, where - (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol; (b) 'duty' is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; (c) 'relevant person' means, in relation to premises in respect of which there is in force a premises licence - (i) the holder of the premises licence, (ii) the designated premises supervisor (if any) in respect of such a licence, or (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence; (d) 'relevant person' means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and (e) 'value added tax' means value added tax charged in accordance with the Value Added Tax Act 1994. (3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny. (4) Where the permitted price on a day ('the first day') would be different from the permitted price on the next day ('the second day') as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which

BIRMINGHAM CITY COUNCIL

take place before the expiry of the period of 14 days beginning on the second day.

Each individual assigned to carrying out a security activity must be licensed by the Security Industry Agency.

The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendation made: (a) By the British Board of Film Classification (BBFC), where the film has been classified by that Board, or (b) By the Licensing Authority where no classification certificate has been granted by the BBFC, or, where the licensing authority has notified the licence holder that section 20(3)(b) (s74(3)(b) for clubs) of the Licensing Act 2003 applies to the film.

Annex 2 – Conditions consistent with the Operating Schedule

The outside seating area will have a barrier and this area will be supervised by door staff when in use.

The capacity for those using the outside seating will be monitored by door staff, to ensure that the area always remains within a safe limit.

Maximum number of persons shall be limited to 270 or such numbers as may be agreed from time to time with local authority surveyor.

Annex 3 – Conditions attached after a hearing by the Licensing Authority

N/A

Annex 4 – Plans

The Plan of the premises with reference number 170654 which is retained with the public register kept by Birmingham City Council and available free of charge for inspection by appointment only. Please ring the Licensing Section on 0121 303 9896 to book an appointment.



