

BIRMINGHAM CITY COUNCIL
LICENSING SUB-COMMITTEE C

Wednesday 27 March 2024 at 1200
hours in 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: BELLE VIEW, 289 ICKNIELD PORT ROAD, BIRMINGHAM, B16 0AG -
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 1200 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 **Belle View, 289 Icknield Port Road, Birmingham, B16 0AG.**

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: The Belle View,

Premise Licence Number: 4773

Premise Licence Holder: Ms Andrea Coleen Tracy-Ann Murray.

Designated Premise Supervisor: Ms Andrea Coleen Tracy-Ann Murray.

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 at 2344 hours Friday 22.3.24 hours a person was attacked by a group of around 8 persons 3 of whom were armed with machetes. This person sustained injuries which were a cut to his left hand and a bruise under his right eye. This occurred in the smoking area where the person had gone with the DJ from the premises The premises has operating conditions to finish licensable activity at 2300 hours, the smoking area to be not used after 2300 hours, for alcohol to be ancillary to food, for music to be background music only and for CCTV footage to be made immediately available to the Police.

Wounding with intent is a serious crime by virtue of the maximum sentence being 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. The staff at the premises are also in breach of the operating conditions of the premises license.

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

Superintendent 2923 Minor.



sup 2923 minor



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 2923 Paul Minor

(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: The Belle View.

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

289, Icknield Port Road, Rotton Park.

Post Town: **Birmingham**

Post Code (if known): B16 0AG

2. Premises Licence details:

Name of premise licence holder (if known):

Ms Andrea Coleen Tracy-Ann Murray.

Number of premise licence (if known):

4773.

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)

The Belle View is a licensed premises situated at 289, Icknield Port Road, Rotton Park, Birmingham. B16 0AG. The premises license holder and designated premises supervisor is Mrs Andrea Coleen Tracy-Ann Murray.

The premises is licensed to sell alcohol for consumption on the premises between the hours of 1200 and 2300 hours on each day of the week. The smoking area should also cease at 2300 hours each day of the week. CCTV should be made available to the Police on request. The sale of alcohol should be ancillary to food and music should be at a background level only. The premises license does not specify for regulated entertainment to be provided.

At approximately 2344 hours Friday 22nd March 2024 the premises were open and conducting licensable activity.

At this time an incident occurred whereby a male has been attacked in the smoking area of the premises by a group of eight persons three of whom were armed with machetes. The male has sustained a cut to his left hand and bruising under his right eye. At this time the premises should have stopped all licensable activity and the smoking area should not have been in use. If this had been the case then this incident would not have occurred. The victim had attended the premises to play pool and socialise with friends and clearly regulated entertainment was being provided as the victim had attended the smoking area with the DJ from the premises and he had not had food at the premises. After the incident the people left the premises of their own accord and no staff appear to have intervened to stop the incident. The premises have not called the emergency services. .

This matter is a wounding with intent 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 largescale disorder has taken place in the premises and the staff have failed to either intervene to prevent it or to summon help from the emergency services.

West Midlands Police have no confidence in the management of the premises. The lack of confidence in the management is compounded by the premises carrying out licensable activity in breach of the premises license by serving after time and by not ensuring that the smoking area was clear of members of the public by the time specified in the operating conditions of the premises license. Had these things been done then this incident would not have occurred. CCTV could not be made available to the police on request who were investigating the incident. Alcohol was not being sold as ancillary to food and music was not at a background level.

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:

 2923 MmL.

Date: 26.3.24

Rank/Capacity: Superintendent Paul Minor

Contact details for matters concerning this application: BW Licensing

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

Telephone Number(s): 0121 626 6099

E-mail - bw_licensing@west-midlands.police.uk

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.

PREMISES LICENCE

4773 / 1

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Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Ms Andrea Murray	
Post town:	Post Code:
Telephone Number: Not Specified	
Email Not Specified	

Registered number of holder for example company number or charity number (where applicable) N/A

Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Ms Andrea Murray	
Post town:	Post Code:
Telephone Number: Not Specified	

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 17/000132/LAPER	Issuing Authority SANDWELL METROPOLITAN BOROUGH COUNCIL

Dated 29/09/2017

SHAID YASSER
Senior Licensing Officer
For Director of Regulation and 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: ½ 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 were 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)

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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 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.

Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

The Designated Premises Supervisor shall ensure that all existing staff, new staff, supervisors and managers receive an induction in the legality and procedure of alcohol sales, prior to undertaking the sale of alcohol. This training will include the lawful selling of age restricted products, refusing the sale of alcohol to a person who is drunk or appears to be intoxicated, the contents of the premises licence; times of operation, licensable activities and all conditions. Verbal refresher training will be undertaken at intervals not to exceed 6 months. Training documents shall be signed and dated and training records be made available to an authorised officer of the Licensing Authority or the Police upon reasonable request. The records will be retained for at least 12 months.

An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The log will be inspected and signed off by the DPS (or a person with delegated authority) at least once a week. The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence and/or is relevant to the licensing objectives.

2b) Conditions consistent with, and to promote the prevention of crime and disorder

All security staff must sign into a register at the commencement of every duty. This register will contain the name and Full (16 digit) SIA badge number of each security staff member on duty. The register must be fully maintained and kept on the premises at all times and must be made available to an officer from a responsible authority upon reasonable request. Records must be retained for at least 6 months.

Door supervisors employed at the venue will wear hi-visibility outer garments at all times both when working inside and outside the venue.

2c) Conditions consistent with, and to promote, public safety

No enforceable conditions identified from operating schedule

2d) Conditions consistent with, and to promote the prevention of public nuisance

The Premises Licence holder shall ensure the placing of bottles into receptacles outside the premises shall take place at times that will minimise disturbance to nearby properties and will not take place between 23.00 and 07.00hrs.

The premises licence holder shall implement a system to ensure that offensive smells from the licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

2e) Conditions consistent with, and to promote the protection of children from harm

The Premises Licence holder shall ensure the Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, as per the current home office guidance.

The Premises Licence holder shall ensure Challenge 25 signage will be displayed.

The Premises Licence holder shall ensure a log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale and the name of the member of staff who refused the sale. The log shall be available for inspection at the premises by the police trading standards or an authorised officer of the Authority at all times the premises is open, upon request. The Designated Premises Supervisor shall regularly check the register to ensure it is being consistently used by all staff.

Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

Licensing Sub Committee A resolved to GRANT the application on Monday 25th September 2017 subject to the following conditions as detailed below:

The hours for the Sale of Alcohol shall be from 12:00noon to 23:00 daily.

The Alcohol Sales shall be 'On Sales' Only - NOT Off Sales.

The opening and closing hours of the premises shall be no earlier than 09:00 hours and no later than 23:30 hours daily.

After 21:00 hours daily, no consumption of alcohol is permitted in the beer garden area (the area to be used only for smoking after 21:00 hours, and use of the area for smoking to cease at 23:00 hours daily.

3b) Committee conditions to promote the prevention of crime and disorder

All those conditions agreed in advance with west Midlands Police shall apply - The Premises to run primarily as a restaurant with the sale of alcohol to be ancillary to the food. Music to be background music only.

CCTV to be installed to the recommendations and specification as agreed with West Midlands Police (Birmingham Licensing department).

CCTV to be working at all times the premises is open and conducting licensable activity.

CCTV images to be held for a minimum of 28 days, and to be made immediately available and downloadable (on written request) by any Police/Police Staff or local Authority Officer.

Door supervisors will not routinely be deployed, however, for specific events they may be deployed, the numbers and times to be based upon a risk assessment by the premises licence holder.

3c) Committee conditions to promote public safety

N/A

3d) Committee conditions to promote the prevention of public nuisance

All those conditions agreed in advance with the Environmental Health Department of Birmingham City Council shall apply.

If BCC Environmental Protection Unit deem necessary a Noise Limiting Device (NLD) of a type approved by the Environmental Protection Unit of Birmingham City Council shall be fitted to the amplification system and set at a pre-set volume level agreed with the Environmental Protection Section, to ensure the volume of music is pre-set so as not to cause a noise nuisance to the occupiers of nearby buildings. The installation of the NLD shall be notified to the Environmental Protection Section at least 14 days before its' initial operation and shall fulfil the following criteria:

The device shall be fitted in an approved position by a competent person and once fitted shall not be moved from the approved position unless prior approval is given.

The device shall be capable of cutting off the mains power to the amplification system if the volume exceeds the pre-set level determined by the Environmental Protection Unit or shall be capable of maintaining the volume of the music at the pre-set level determined by the Environmental Protection Unit and shall not restore power to the sound system until the NLD is reset by the licensee or their nominated person.

The amplification system shall only be operated through the sockets/power points linked to and controlled by the NLD at all times.

The NLD shall be maintained in full working order and at the approved pre-set volume whilst the amplification system is operational.

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Any damage or malfunction to the NLD shall be reported to the Environmental Protection Unit as soon as possible and within 24 working hours of the damage occurring or malfunction being noted. The NLD shall not be used in this damaged or malfunctioning state until approval has been given by the Environmental Protection Unit.

The Licensee shall ensure that a written agreement is made with reputable taxi companies to ensure that when taxi's pick up and drop off customers from the licensed premises noise from these vehicles does not cause a nuisance to local residents.

Customers who require a taxi from the site shall be advised by staff to use taxi companies specified by the Licensee.

Notices shall be displayed within the licensed premises for customers to view giving details of taxi companies to use.

The Licensee shall ensure notices shall be displayed near the entrance and exits of the premises advising customers to have respect for the nearby residents and keep noise levels to a minimum.

The Designated Premises Supervisor shall be responsible for ensuring that the smoking areas do not create a nuisance to neighbours at the premises and if necessary restrict the number of people utilising the smoking areas at any one time.

All external doors and windows to be closed during regulated entertainment except for access and egress.

There shall be no speakers in the external areas at any time.

3e) Committee conditions to promote the protection of children from harm

N/A

Annex 4 – Plans

