

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A

MONDAY, 16 OCTOBER 2023 AT 10:00 HOURS
IN ON-LINE MEETING, MICROSOFT TEAMS

Please note a short break will be taken approximately 90 minutes from the start of the meeting and a 30 minute break will be taken at 1300 hours.

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](#)) 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**

5 - 30

4 **MINUTES**

To confirm and sign the Minutes of the meeting held on 11 September 2023 at 1000 hours.

To note the public part of the Minutes of the meeting held on 25 September 2023 at 1000 hours.

To confirm and sign the Minutes of the meeting held on 25 September 2023 at 1130 hours.

31 - 54

5 **LICENSING ACT 2003 PREMISES LICENCE – SUMMARY REVIEW
ZULU BAR AND RESTAURANT, UNIT 1, 105 – 127 BREARLEY
STREET, NEWTOWN, BIRMINGHAM, B19 3XJ**

Report of the Director of Regulation and Enforcement.
N.B. Application scheduled to be heard at 10:00am.

6 **OTHER URGENT BUSINESS**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chair are matters of urgency.

7 **EXCLUSION OF THE PUBLIC**

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

PRIVATE AGENDA

1 **MINUTES**

To note the private part of the Minutes of the meeting held on 25 September 2023 at 1000 hours and to confirm and sign the

Minutes as a whole.

2 **OTHER URGENT BUSINESS (EXEMPT INFORMATION)**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chair are matters of urgency.

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A 11 SEPTEMBER 2023
--

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD ON MONDAY 11 SEPTEMBER 2023 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Phil Davis in the Chair;

Councillors Mary Locke and Izzy Knowles.

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)

1/110923 **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](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2/110923 **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.

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

3/110923 Apologies were submitted on behalf of Councillor Morrall and Councillor Knowles was the nominated substitute Member.

**LICENSING ACT 2003 PREMISES LICENCE – GRANT – TAJ FOODSTORE, 43
ALCESTER ROAD SOUTH, KINGS HEATH, BIRMINGHAM, B14 7JQ.**

* * *

On Behalf of the Applicant

Tony Clarke – agent

Those Making Representations

No one attended on behalf of those making representations.

* * *

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

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

At this stage the chair invited the applicant to make their presentation and Tony Clarke made the following points: -

- a) That the applicant had taken over the lease and was going to be DPS.
- b) The premises was a high end supermarket selling fresh meats, groceries, baked, alcohol and the focus was on European foods.
- c) The alcohol was kept separate.
- d) The CCTV system was installed with 10 cameras covering the interior and exterior of the shop.
- e) The shop was situated on a busy High Street, with lots of different premises on one street.
- f) Risk assessments had been done and the operating schedule was mapped out in line with BCC's Statement of Licensing Policy and supporting the Licensing Objectives.
- g) The operating schedule and conditions were robust.

The Members asked questions and Tony Clarke gave the following responses: -

- a) That they had carried out research in terms of the hours and needed to try and get as much income as possible to make the business work. They felt they could open late and do so safely.
- b) Traffic and parking issues were a planning issue. But his client would happily work with local Councillors to discuss measures that could be taken to address those issues.
- c) There would be 4 permanent full-time staff and 6 part time. There would be 10 members of staff all together. All of which would be locally employed.
- d) Training was in the operating schedule and would be refreshed.
- e) The applicant had worked in shops before and would not be opening the premises and investing so much money unless he was taking it very seriously.

Tony Clarke was invited to make a brief closing submission, he made the following closing statements: -

- The application was served on all responsible authorities and none of them made an objection.
- The absence of an objection from WMP indicates that in their expert opinion the application does not undermine the Licensing Objectives.
- The application and operating schedule were strong and he asked the Committee to grant the application.

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

4/110923 **RESOLVED:-**

That the application by Taj Foodstores Limited for a premises licence in respect of Taj Foodstore, 43 Alcester Road South, Kings Heath, Birmingham B14 7JQ, be granted as follows:

-
1. The hours for the Sale of Alcohol (for consumption off the premises) to operate from 06.00 hours until 23.30 hours daily
 2. The premises shall not permit the sale of single cans of alcohol
 3. All those conditions which were agreed between the applicant company and West Midlands Police in advance of the meeting shall apply, namely:
-
- The premises licence holder or their nominated person to check the CCTV system daily, prior to carrying out licensable activity, to ensure it is operational and recording. This check is to be documented, dated,

timed and signed by the person checking. This documentation to be made available to any of the responsible authorities on request

- If for any reason if the CCTV hard drive needs to be replaced the previous/old hard drive will be held at the premises for a minimum of 28 days. This old/previous hard drive will be made available to any of the responsible authorities on request

4. The condition which the applicant company agreed to remove on the advice of West Midlands Police in advance of the meeting (originally numbered “1.5”) shall be removed, namely:

- In the case of a breakdown or malfunction the premises licence holder/designated premises supervisor shall make sure that the CCTV is in working order as soon as practicable
-

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.

The applicant company was represented at the meeting by its licensing consultant. The consultant addressed the Sub-Committee and explained that the applicant company and its director had recently taken over the lease. The director would be the nominated designated premises supervisor, and would be working full-time in the shop. The shop would be a “high-end supermarket” selling a variety of groceries, fresh meats and a small bakery. It would be focused on European foods.

The requested hours for the sale of alcohol by retail were from 07.00 to 00.00 hours on weekdays; the application requested that on Fridays and Saturdays the end time be extended to 02.00 hours. The consultant said that the intention was for the shop to offer a service to the local community from early morning into the evening. One of the fridges in the shop had been designated to house alcohol, and another section would be for a selection of wines (as identified in the Plan in the Committee Report).

The consultant led the Sub-Committee through the proposed operating schedule and all the measures which would be taken to promote the licensing objectives, including CCTV, a security door at the rear and roller shutters at the front. Alcester Road South was a busy mixed-use High Street with numerous small independent and national retailers; these included other supermarkets and off-licences. The Sub-Committee noted that residential properties appeared to be in the vicinity of the Taj Foodstore.

The applicant company had found that these neighbouring shops were thriving in a small area, and had conducted a risk assessment, taking into consideration Birmingham City Council's Statement of Licensing Policy of 2020, the revised Guidance issued under section 182 of the Act, the 2003 Act itself, the four licensing objectives, and also codes of practice on alcoholic drinks and the Equality Act 2010.

The consultant reminded the Sub-Committee that applications should be considered on their individual merits, and noted the need to ensure that the conditions attached to the licence would be focused on matters within the control of the licence holder. He remarked that the conditions should only address those matters which were within the control of the licence holder, observing that the conditions were “not a mechanism for the general control of antisocial behaviour of individuals”, and especially not once they were away from licensed premises. The Sub-Committee accepted this.

The consultant explained that the risk assessment had paid appropriate regard to the location, character and condition of the premises, the nature and the extent of the proposed use and the persons likely to be attracted to the premises. The operating schedule had then been mapped out in line with the Statement of Licensing Policy 2020, and consideration had been given to how the operating schedule would promote the four licensing objectives.

The applicant company had ensured that the conditions were precise and enforceable, and tailored to the individual type, location and characteristics of the premises, but did not seek to manage the behaviour of customers once they were beyond the direct management of the licence holder company and its staff. However, the applicant company intended to make sure that its own customers would not create problems within the direct control of the shop.

The consultant had noted that the written representations contained numerous references to crime and antisocial behaviour in the Alcester Road South vicinity. He asked the Sub-Committee to note that these problems could not be related to the Taj Foodstore premises, which had only recently begun trading. The Sub-Committee accepted this.

He further noted that there had not been any representation regarding crime and disorder from West Midlands Police, who were the experts on those issues; instead, the Police had approved the application with the addition of two conditions, and the removal of a condition originally numbered “1.5” in the proposed operating schedule. The Sub-Committee noted that the applicant company had agreed this with the Police in advance of the meeting.

The consultant confirmed that the company director was over 18 years of age and was entitled to work in the UK. All the relevant paperwork had been completed, properly served to all parties, the fees had been paid, and it had been advertised in the correct manner. Regarding the licensing objectives, a comprehensive risk assessment had been completed, and robust conditions had been approved by the Police.

The consultant observed that seven of the proposed conditions related to the operation of CCTV on the premises. All spirits would be displayed and sold from behind the counter. Furthermore, the other

conditions covered all aspects of safe operation. All in all, the applicant company believed that it had adequately fulfilled the requirements of the Statement of Licensing Policy.

The consultant noted that the local Ward Councillor had stated that he was concerned that there would be more issues with antisocial behaviour if there were to be another off-licence premises on Alcester Road South; the consultant felt that this was a question to put to the Planning department, not the Licensing Sub-Committee.

The second objection, from a local resident, was also concerned with the risks of an increase in antisocial behaviour, and again questioned the “need” for another licensed premises, which was not relevant. The third representation, from another resident living nearby, was similar – relating to the area having perhaps reached saturation point, and also traffic issues, which were not relevant. The consultant considered that none of the concerns raised could be attributed to the Taj Foodstore, which had only just opened, and especially not given that there were so many other shops in the area, many of them licensed premises.

In response to Member questions, the consultant confirmed that the shop had begun trading in the last two weeks, but was not yet offering alcohol, and there had been no issues in the last two weeks. One Member had noted that the hours that the premises was advertising online were 06.00 hours to 23.30 hours daily, and therefore asked why the terminal hour for alcohol sales was to be midnight, and 02.00 hours at weekends.

The consultant stated that the applicant company had researched the area and had found that there was “a position to open up a new premises with that facility”. Late night trade would be something that could be managed appropriately, and the company director had felt that there was an opportunity to open late and do it safely, meeting all the requirements in terms of promoting the licensing objectives.

There would be four permanent full-time staff, and another six part-time staff – ten members of staff in total. They would all receive comprehensive training, with a focus on underage sales of alcohol, refusals and street drinkers. All of them were living locally, and therefore jobs were being created in Kings Heath as a result of the Taj Foodstore opening.

The consultant observed that the company director had worked in shops in recent years, and would have the benefit of a full team of staff. The premises was a large shop, akin to a mini supermarket. Money had been invested to bring it up to a high standard, a robust operating schedule capable of promoting the licensing objectives had been proposed, and therefore the applicant asked the Sub-Committee to grant the licence. However, the consultant stated that should the Members consider that there were any areas of weakness in the application, the applicant company was happy to discuss and accept

any other further conditions that the Sub-Committee believed were necessary.

The consultant concluded by observing that the representations had involved a lot of possibilities, or “potential” problems, which could happen in the future; in the consultant’s opinion, these had been based on fear. The shop needed the licence in order to keep the business going, especially when so much money had been invested. The consultant felt that if the shop had already been open for six months, those making representations probably would not have had those concerns; leaving that aside, he remarked that there was no evidence that the grant of the licence would have an adverse effect on the licensing objectives.

He also noted that none of those making representations had attended the meeting to address the Sub-Committee. He reminded the Members that the premises was not responsible for the actions of other people, unless it or its customers were directly involved and within the vicinity of the shop. The comprehensive CCTV arrangements would reduce the chances of risks to the licensing objectives.

The Sub-Committee noted 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 Sub-Committee was aware that decisions should be evidence based, per *R (on the application of Daniel Thwaites plc) v Wirral Borough Magistrates’ Court [2008] EWHC 838 (Admin)*, which emphasised the principles laid down by the Licensing Act 2003 - namely that there should be “light touch bureaucracy” applied to applications for premises licenses, and that restrictions should only be attached to premises licences if necessary to promote the licensing objectives, and be made on evidence, not based on speculation.

When deliberating, the Sub-Committee noted that the operating schedule had been drafted with consideration of the licensing objectives, and had been approved by the Police. This was reassuring. The consultant had also stated that many of the concerns raised by those making representations were about issues that were not altogether relevant to the applicant company or the premises.

However, from their own personal knowledge of the Alcester Road South area, the Members were of the view that street drinking was a significant issue in that location, and that it was therefore necessary to impose some further controls in the interests of ensuring the promotion

of the licensing objectives. This decision was based on their knowledge of the location, and was therefore not speculative.

The principal concern of the Members was the risk level around the proposed hours for the sale of alcohol; these were very long (until 02.00 hours at weekends), and a clear risk to the upholding of the licensing objectives when the area was known for street drinkers. The 02.00 terminal hour at weekends was a particular concern, as the Members considered that the premises was likely to become a magnet for problem drinkers at that hour, and an increase in antisocial behaviour would be the result.

The Members had heard in the meeting that the current operating times were from 06.00 to 23.30 daily; they considered that by adopting these hours for the sale of alcohol (namely an extra hour in the morning and a reduction of thirty minutes on weekday evenings), the licensing objectives could be upheld, regardless of the local problem with street drinkers.

A further sensible measure was to prohibit the sale of single cans of alcohol; the Members were aware that this was known to be something that attracted street drinkers to small shops. The Members felt the licence holder would benefit from a provision guarding against this known risk.

The Sub-Committee considered that the measure to prevent sales of single cans was reasonable and proportionate. It reflected the consultant's reminder that the conditions should only address those matters which were within the control of the licence holder, and should not be used as a mechanism for the general control of antisocial behaviour of individuals once they were away from licensed premises. The prohibition of single can sales was commonly seen on the licence conditions of premises operating in areas known for street drinkers, and accordingly the Members considered it sensible to include it in this instance, to support the licence holder and staff in upholding the licensing objectives.

After making a determination to include these provisions, the Sub-Committee resolved that the application could safely be granted together with the amendments required by West Midlands Police, as the operating schedule (as amended) properly addressed the promotion of the licensing objectives. Members considered that by granting the application with the amendments, the four licensing objectives in the Act would be properly promoted. The Sub-Committee was satisfied that trading would be safe, and noted that both the applicant company and the staffing arrangements were satisfactory. The application was therefore granted with conditions.

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

Licensing Sub-Committee A – 11 September 2023

Secretary of State, the application for a premises licence, the written representations received and the submissions made at the hearing by the applicant company via its consultant.

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.

The meeting ended at 1055 hours.

CHAIR.....

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A 25 SEPTEMBER 2023
--

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD ON MONDAY 25 SEPTEMBER 2023 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Phil Davis in the Chair;

Councillors Mary Locke and Penny Wagg.

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)

1/250923 **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](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2/250923 **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.

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

- 3/250923 Apologies were submitted on behalf of Councillor Morrall and Councillor Wagg was the nominated substitute Member.
-

MINUTES

- 4/250923 That the public section of the Minutes of the meeting held on 28 April 2023 at 1000 hours, 24 July 2023 at 1000 hours, 7 August 2023 at 1000 hours & 14 August 2023 at 1000 hours were noted and the Minutes as a whole were circulated and confirmed and signed by the Chair.
-

**LICENSING ACT 2003 PREMISES LICENCE – GRANT – ASDA EXPRESS, 573
PERSHORE ROAD, HARBORNE, BIRMINGHAM, B29 7DF**

* * *

On Behalf of the Applicant

Richard Taylor – Solicitor
Neil Eccles – Asda Licensing Manager

Those Making Representations

Louise Darby – Local Resident
Philip Barlow – Local Resident

* * *

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

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

At this stage the chair invited the applicant to make their presentation and Richard Taylor, on behalf of the applicant made the following points: -

- a) That Asda Stores Limited were a well known operator whom traded around 550 stores in England and Wales.
- b) That he had been acting for Asda for some time and was yet to represent them in issues of review or criminal proceedings relating to alcohol sales. Which demonstrated the quality of Asda's policies and procedures.

- c) The application is for a small supermarket/convenience store. Planning permission had already been granted from 0600-2300 hours. They were applying for exactly the same hours under the licensing regime.
- d) Planners had determined that it was a suitable location to operate as a shop for those hours.
- e) There was nothing to stop the premises opening as soon as it was built, the only question was whether they would be able to sell alcohol and whether it would make any difference whatsoever.
- f) Asda would be running the premises exactly the same as the bigger stores, the only difference was that alcohol such as spirits and high value products would be behind the counter.
- g) CCTV would be retained for 31 days, there would be a challenge 25 policy with till prompts, all staff would be trained and refreshed every 12 months.
- h) They would liaise with West Midlands Police in relation to security and that would also be risk assessed.
- i) None of the responsible authorities had made objections.
- j) Much of the representations received contained information not relevant to the Licensing Act.
- k) The issues relation to anti-social behaviour were not supported by the police as they had made no objection.
- l) Any use of the premises would increase traffic with or without a licence but the premises had a car park with 50 spaces.
- m) The issues regarding litter would not be an issue as the premises was only small.

The Members asked questions and Richard Taylor gave the following responses:

-

- a) That deliveries would be made when the premises was open.
- b) Asda would ensure that the car park and the premises are kept clean. Part of the staff's roles are to ensure the areas as kept clean and free of litter.
- c) The trading hours were yet to be determined but the hours applied were the hours the Members should take as the stores trading hours.
- d) They may well close earlier on a Sunday for that would be determined based on demand.

The Members asked a specific question regarding the sale of single cans and Neil Eccles advised that Asda didn't split packs and would only sell miniatures in gift packs around Christmas time.

The Chair invited those that had made representations to make their case and Louise Darby made the following points: -

- a) That when she saw the notices up there was reference to the store being open 24/7 during the month of December. What had changed?

At this stage the Chair allowed Richard Taylor, on behalf of the applicant to address the question put forward by the objector. Richard Taylor advised that the position changed in terms of the hours when the planning permission was granted. Therefore the hours requested in the application were 0600-2300 daily.

The Chair also reminded Ms Darby that cross examination was not permitted and that she should simply make her points.

Louise Darby continued: -

- a) That the Costa premises has caused a huge increase in litter and it was a concern.
- b) Selly Park residents had been doing extra litter picks to deal with the issues.
- c) That Asda selling alcohol was a concern, there was already lots of litter from people drinking in the area such as cans, bottles, and drug paraphernalia. If granted a licence Asda would only increase that.
- d) There was a huge corridor of HMOs and supported housing in the area. They were already experiencing problem behaviours from some of the vulnerable people and lots of them had addiction issues. The premises would provide another avenue for them to get alcohol.

The Chair then invited Philip Barlow to make his submission and he made the following points: -

- a) The area was often known as the Pershore Corridor; supported housing with people with serious issues.
- b) The local Marks and Spencers had to put security guards on due to nuisance behaviour from alcohol fuelled people.
- c) Drug paraphernalia was often found in the street.
- d) That the premises would just provide another opportunity for people who already had alcohol problems.
- e) The nuisance was obvious.

- f) The police hadn't made representations, but they often didn't. They were under immense pressure and therefore the fact they made no representation had little meaning.
- g) That it was the foregone conclusion that Asda would get the licence whether it was a benefit or detriment to the local community. It wouldn't be taken into consideration.

The Chair advised that no decision was taken until all the evidence had been heard and that the Committee did not disregard the submissions made before them.

The Chair then invited those making representations to make a closing submissions and Louise Darby made a closing statement on behalf of both herself and Philip Barlow: -

- That the area was already crowded with places that sold alcohol.
- There were issues in terms of increased drunken behaviour and litter which impacted them in their day-to-day lives.
- That they were the people on the end of the nuisance.

Richard Taylor was invited to make a brief closing submission, he made the following closing statements: -

- He drew the Committees attention to the Home Office Guidance Paragraph 9.43 & 10.15 which stressed the importance of evidence based decision making and also that premises such as shops and supermarkets should be free to provide sales of alcohol during the times of which they are open unless there is good reason to restrict it.
- He also made reference to the City Council's Statement of Licensing Policy 6.9 which also stipulated much the same as the guidance from the Home Office 10.15 .
- That the Committee should be looking for evidence and the only evidence was that the applicant was a good operator which had demonstrated they adopted brilliant policies and procedures and had never been reviewed.
- There was also no objection from any responsible authority particularly West Midlands Police who were the experts in crime and disorder.
- There was not a shred of evidence demonstrated by the objectors and whilst they understood the community had concerns it should not stop a licence be granted.

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

5/250923 **RESOLVED:-**

That the application by Asda Stores Limited for a premises licence in respect of Asda Express, 573 Pershore Road, Harborne, Birmingham B29 7DF, 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.

The applicant company attended the meeting represented by its solicitor together with the company's national licensing manager. The solicitor addressed the Sub-Committee. The company was a leading national supermarket chain, trading around 550 stores in England and Wales. The company served millions of customers per week and was proud of the fact that it had never been the subject of a Review of a licence, or any criminal proceedings relating to alcohol sales. It attributed this to the quality of its operation and its policies, procedures and the training given to staff. This had ensured that all of the company's premises operated without any difficulty whatsoever.

The solicitor made submissions regarding the operating schedule (as set out in the Committee Report). The branch at 573 Pershore Road would be a small supermarket/convenience store. It was part of the development of the Pebble Mill site. Planning permission for the shop had already been granted, permitting operation from 06:00 hours until 23:00 hours. These were the hours requested on the application for a premises licence.

The solicitor observed that Planning had already determined that the site was a suitable location to operate as a shop, and to operate for the hours requested; he remarked that there was nothing to stop the premises from opening as a shop once it was built and fitted out. He reminded the Sub-Committee that the only question was whether or not the shop should be able to offer alcohol, and whether or not the sale of alcohol would affect the upholding of the licensing objectives.

The company was confident that there would be no adverse effect whatsoever on the licensing objectives. The company would be doing everything that it did in its other stores up and down the country. This would include everything that one would expect from a responsible national operator – CCTV arrangements, full training for staff which would be regularly refreshed, and a Challenge 25 policy. The Challenge 25 policy would be supported by till prompts, and also via the services of an independent test purchasing organisation, which would send young-looking adults into the company's stores to buy age

restricted products. These safeguards were in place across the entire Asda estate.

For smaller stores such as the 573 Pershore Road site, all spirits and high value alcohol products would be displayed behind the counter rather than on the shelves. Miniature alcohol products would not be offered, other than as part of gift packs in the run up to Christmas. The company did not sell single cans of beer; whilst it did offer some single bottles, these were premium ales and lagers.

As far as security measures were concerned, the company liaised with local police and risk-assessed the need before providing security guarding and implementing the security measures required by the risk assessment.

The company had carefully considered the issues raised in the representations, but the solicitor urged the Sub-Committee to put the representations into context – namely the lack of representations from any of the responsible authorities. The police, who were the experts on crime, disorder and antisocial behaviour, had found the application to be entirely satisfactory. Similarly, Trading Standards, Environmental Health, Licensing Enforcement, and indeed the rest of the responsible authorities had raised no issue with the proposed style of operation.

The solicitor reminded the Sub-Committee that the premises could open as a shop in any event, and asked the Members to focus on whether or not there would be any impact on the licensing objectives if the premises were to be permitted to sell alcohol in the responsible manner seen in all of its retail premises. The Sub-Committee agreed that this was the correct approach.

Bearing this in mind, the solicitor remarked that the representations mentioned some matters which were not relevant to the instant application. The number of existing alcohol-licensed premises in the area was not something that should be taken into account, and nor should problems associated with other premises; on the latter point, the solicitor reminded the Sub-Committee that the police had not considered that the application would cause any problems, and in any event, problems created at other unlinked premises were a matter to be dealt with at source. He reminded the Sub-Committee that a satisfactory application should not be rejected simply because other premises were experiencing problems. The Members accepted this.

Suggestions in the representations of antisocial behaviour in the area had not been supported by the police. Concerns had been raised about an increase in traffic; it was inevitable that any use of the site would increase traffic, but car parking was available for customers. There were fears that the new shop could create litter, but it was a small supermarket with a car park, and it was therefore not particularly likely that litter would be created. Asda was very proud of its premises and would do everything it could to make sure that the shop and car

park were smart and well kept; this would be part of the staff members' jobs. Deliveries would be carried out when the shop was open and would therefore not create public nuisance.

Further concerns had been raised by the objectors, relating to nearby houses in multiple occupation. However, the company's view was that alcohol would be sold responsibly and it was therefore highly unlikely that the grant of a licence would cause any problems to the neighbourhood. The exact trading hours had not quite been determined, but the request was for 06:00 to 23:00 hours, which was not unusual for the area. The Sub-Committee was aware from the representations that at least one nearby premises was licensed to sell alcohol across 24 hours.

All in all, the company was aware of its responsibilities in terms of the licensing objectives. It was confident that it could operate well, and that any risks to the licensing objectives would be managed well.

The Sub-Committee then turned to the written representations which had been received from other persons, and considered these carefully. In addition, two local residents attended the meeting in person and addressed the Sub-Committee.

They had noted that litter in the area had markedly increased; they suspected that this was created by a local coffee shop. They were concerned that to grant a licence for off-sales of alcohol would exacerbate litter already being created by people consuming alcohol in the area, who were known to leave bottles and cans lying around. They felt that this would require increased litter picking operations.

They raised the issue of the local multi-occupational houses; they had observed problem behaviours from the residents of these houses, and were concerned that the addition of another alcohol-licensed premises trading to 23:00 hours could cause the problem behaviours to worsen. The Sub-Committee was aware that many local licensed premises were already trading to 23:00, and at least one operated across 24 hours.

The objectors had noted that the convenience store at the petrol station had had to recruit security guards due to issues with shoplifting. They observed that the area suffered nuisance behaviour on a regular basis from people who were inebriated and seeking alcohol. They felt that due to lack of resources the police rarely attended the Pershore Road area; they were not happy that the police had approved the application. They were worried that it was a foregone conclusion that the licence would be granted.

The Chair of the Sub-Committee assured those making representations that the decision-making was most certainly not a foregone conclusion, and instead would be based on the probable effect of the operation on the licensing objectives.

The objectors felt that the neighbourhood was already a crowded area, as there were four premises already selling alcohol within 300 yards of the site, one of which operated under a 24-hour licence. Their worry was that drunken behaviour, litter and alcohol-related problems, which they saw on the streets regularly, would increase.

The Sub-Committee noted 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. Paragraph 10.15, relating to shops, stores and supermarkets, recommended that such premises should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet was open for shopping, unless there were good reasons based on the licensing objectives for restricting those hours.

This was repeated almost exactly in paragraph 6.9 of the City Council's Statement of Licensing Policy; in the case of shops known to be focus of crime, disorder and/or disturbance, the Sub-Committee could consider any matter that it deemed relevant 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 issue was whether the application to sell alcohol by retail should be rejected, when the shop was permitted to be open in any event.

The evidence was that the company was a highly experienced supermarket retailer, operating over 500 stores nationwide and serving millions of customers per week, and which had never been reviewed under the Licensing Act 2003, or prosecuted. The company had produced a comprehensive package of measures to promote the licensing objectives – as it had in all its premises. The application had resulted in no representations from the police (who the Home Office said were to be the Sub-Committee's main source of advice on matters of crime and disorder), or any other responsible authority. The responsible authorities were the experts in their respective fields, and therefore the evidence was that the experts did not oppose the application.

Whilst the Members had listened carefully to the concerns raised by those making representations, it seemed that the majority of the worries were speculative, and had not taken into account the careful operating style of a national supermarket retailer. In particular, it was not inevitable that problems would be created in terms of the local houses in multiple occupation; alcohol sales would be conducted responsibly by an experienced company such as the instant applicant. Moreover, it was not particularly likely that litter would be created by a small supermarket which did not sell single cans of alcohol. The single

bottles on offer would be premium ales which were not favoured by problem drinkers, due to pricing.

Whilst the Sub-Committee noted that those living nearby seemed to be experiencing problems with antisocial behaviour, that was clearly not related in any way to the applicant company, which had not yet begun trading. The proper course therefore was for those issues to be dealt with, not to reject applications from a responsible retail company which would be more than capable of upholding the licensing objectives.

The Sub-Committee carefully considered the written representations (which were in the Committee Report), but considered that the points made had been adequately covered by the applicant company. The Sub-Committee therefore did not find that there was an overwhelming evidential and causal link between the issues raised in the written representations and the effect on the licensing objectives.

The application had been straightforward, with no objection from West Midlands Police, or from any of the other responsible authorities. The applicant had put forward an operating schedule which properly addressed the promotion of the licensing objectives. All in all, the application inspired confidence.

Members therefore concluded that by granting this application, the four licensing objectives contained in the Act would be properly promoted. The Sub-Committee was satisfied that trading would be safe, and noted that both the applicant company and the operating schedule were suitable. The application was therefore 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 applicant company (via its solicitor and national licensing manager), and by other persons.

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

6/250923

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.....

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A 25 SEPTEMBER 2023
--

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD ON MONDAY 25 SEPTEMBER 2023 AT 1130 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Phil Davis in the Chair;

Councillors Mary Locke and Penny Wagg.

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)

6/250923 **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](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

7/250923 **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.

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

8/250923 Apologies were submitted on behalf of Councillor Morrall and Councillor Wagg was the nominated substitute Member.

**GAMBLING ACT 2005 – LICENSED PREMISES GAMING MACHINE PERMIT –
HARBORNE STORES, 109 HIGH STREET, HARBORNE, BIRMINGHAM, B17
9NP.**

**GAMBLING ACT 2005 – LICENSED PREMISES GAMING MACHINE PERMIT –
HORNET, 991 ALUM ROCK ROAD, WASHWOOD HEATH, BIRMINGHAM, B8
2LZ.**

* * *

**The applications were non-invite, therefore no one attended the meeting,
other than the Members and Officers of the Sub Committee.**

* * *

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

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

Bhapinder Nandhra outlined both reports together.

Members had no questions.

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

9/250923 **RESOLVED:-**

That the application by Inspired Gaming (UK) Ltd on behalf of Stonegate Pub Company Ltd, for the variation of a Licensed Premises Gaming Machine Permit in respect of Harborne Stores, 109 High Street, Harborne, Birmingham B17 9NP, be granted.

Those matters detailed in the operating schedule and the relevant mandatory conditions under the Gambling Act 2005 will form part of the licence issued.

The premises already had the benefit of a current Gaming Machine Permit issued under the Gambling Act 2005, which permitted a total of four Category C machines. Licensing Enforcement had visited the premises in July 2023 and confirmed that they had no objection to the application. The Sub-Committee considered the likely impact of the application, and concluded that by granting this application, the three objectives contained in the Act will be properly promoted. The documents in the Report reassured the Sub-Committee that the applicant was an experienced operator which was mindful of its responsibilities.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Principles under the Gambling Act 2005, the various Guidance issued to Local Authorities by the Gambling Commission, the application for a Licensed Premises Gaming Machine Permit, and the written representations received.

10/250923 **RESOLVED:-**

That the application by JD Wetherspoon PLC for the variation of a Licensed Premises Gaming Machine Permit in respect of the Hornet, 991 Alum Rock Road, Washwood Heath, Birmingham B8 2LZ, be granted.

Those matters detailed in the operating schedule and the relevant mandatory conditions under the Gambling Act 2005 will form part of the licence issued.

The premises already had the benefit of a current Gaming Machine Permit issued under the Gambling Act 2005, which permitted a total of five Category C machines. Licensing Enforcement had visited the premises on 11th August 2023 and confirmed that they had no objection to the application. The Sub-Committee considered the likely impact of the application, and concluded that by granting this application, the three objectives contained in the Act will be properly promoted. The documents in the Report reassured the Sub-Committee that the applicant was an experienced operator which was mindful of its responsibilities.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Principles under the Gambling Act 2005, the various Guidance issued to Local Authorities by the Gambling Commission, the application for a Licensed Premises Gaming Machine Permit, and the written representations received.

The meeting ended at 1139 hours

CHAIR.....

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee A
Report of:	Director of Regulation and Enforcement
Date of Meeting:	Monday 16th October 2023
Subject:	Licensing Act 2003 Premises Licence – Summary Review
Premises:	Zulu Bar and Restaurant, Unit 1, 105 – 127 Brearley Street, Newtown, Birmingham, B19 3XJ
Ward affected:	Newtown
Contact Officer:	David Kennedy, Principal Licensing Officer, licensing@birmingham.gov.uk

1. Purpose of report:

A review of the premises licence is required following an application for an expedited review under Section 53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006).

2. Recommendation:

To consider the review application and representation and to determine this matter, having regard to:

- The submissions made by all parties
- The Statement of Licensing Policy
- The Public Sector Equality Duty
- The s182 Guidance

3. Brief Summary of Report:

An application under Section 53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) was received on 20th September 2023 in respect of Zulu Bar and Restaurant, Unit 1, 105 – 127 Brearley Street, Newtown, Birmingham, B19 3XJ.

4. Compliance Issues:**4.1 Consistency with relevant Council Policies, Plans or Strategies:**

The report complies with the City Council's Statement of Licensing Policy and the Council's Corporate Plan to improve the standard of all licensed persons, premises and vehicles in the City.

5. Relevant background/chronology of key events:

On 20th September 2023, Superintendent Munro, on behalf of West Midlands Police, applied for a review, under Section 53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006), of the Premises Licence granted to Michael Kahsay in respect of Zulu Bar and Restaurant, Unit 1, 105 – 127 Brearley Street, Newtown, Birmingham, B19 3XJ.

The application was accompanied by the required certificate, see Appendix 1.

Within 48 hours (excluding non-working days) of receipt of an application made under Section 53A, the Licensing Authority is required to consider whether it is appropriate to take interim steps pending determination of the review of the Premises Licence, such a review to be held within 28 days after the day of its receipt, review that Licence and reach a determination on that review.

Licensing Sub-Committee A met on 21st September 2023 to consider whether to take any interim steps and resolved that the licence be suspended, and that Michael Kahsay be removed as the Designated Premises Supervisor (DPS), pending the review of the licence. A copy of the decision is attached at Appendix 2.

The review application was advertised, by the Licensing Authority in accordance with the regulations; the closing date for responsible authorities and other persons ended on 5th October 2023.

A representation has been received from Public Health as a responsible authority, which is attached at Appendix 3.

A copy of the current Premises Licence is attached at Appendix 4.

Site location plans are attached at Appendix 5.

When carrying out its licensing functions, a licensing authority must have regard to Birmingham City Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under s182 of the Licensing Act 2003. The Licensing Authority's functions under the Licensing Act 2003 are to promote the licensing objectives: -

- a. The prevention of crime and disorder;
- b. Public safety;
- c. The prevention of public nuisance; and
- d. The protection of children from harm.

6. List of background documents:

Review Application and Certificate from West Midlands Police, Appendix 1
Sub-Committee Interim Steps Meeting decision 20th July 2023, Appendix 2
Copy of the representation from Public Health, Appendix 3
Current Premises Licence, Appendix 4
Site location plans, Appendix 5

7. Options available:

Modify the conditions of Licence
Exclude a Licensable activity from the scope of the Licence
Remove the Designated Premises Supervisor
Suspend the Licence for a period not exceeding 3 months
Revoke the Licence
Take no action

In addition the Sub Committee will need to decide what action, if any, should be taken regarding the interim steps imposed on the 21st September 2023.



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 - Supt 2643 Munro

(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: Zulu Bar and Restaurant

Postal address of premises, (or if none or not known, ordinance survey map reference or description): **Unit 1**

105 – 127 Brearley Street

Aston

Birmingham

B19 3XJ

2. Premises Licence details:

Name of premise licence holder (if known): **Michael Wolde Rufael KAHSAY**

Number of premise licence (if known): **5165**

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)



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

Zulu Bar and Restaurant is a small two roomed premises located at the junction of Brearley Street and Summer Lane in Birmingham. It has recently changed owner and is in the process of rebranding.

The premises holds a license for late night refreshment from 23:00 as well as recorded music and sale of alcohol by retail daily from 13:00.

At 12:30 on Sunday 17th September, a 999 call alerted police to a disorder outside of the location. A number of males appeared involved and had blood on their hands and one had facial injuries. Enquiries inside showed that a disorder started inside of the premises and that the male with facial injuries had been glassed by another customer. This offence has been recorded as a S18 wounding which is classed as a serious crime.

"Serious crime" is defined by reference to S.81 of RIPA Act 2000. An offence for which an adult could reasonably be expected to be sentenced to imprisonment for a period of 3 years or more.

Further enquiries have revealed that males inside of the premises had been served alcohol by the licence holder, despite the licence not permitting the sale of alcohol until 13:00.

West Midlands Police are concerned that this incident was preventable if the licence was being complied with and wish to bring this to the urgent attention of the licensing committee.

Signature of applicant:

Date: 20/09/2023

Rank/Capacity: Det Sgt 2643 Hume

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

West Midlands Police

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

I Supt 2643 Munro, hereby certify that in my opinion the premises described below are associated with both serious crime and serious disorder.

Premises: Zulu Bar And Restaurant

Address: Unit 1, 105 – 127 Brearley Street, Aston, Birmingham, B19 3XJ

Premise Licence Number: 5165

Premise Licence Holder: Michael Wolde Rufael KAHSAI

Designated Premise Supervisor: Michael Wolde Rufael KAHSAI

I am a Superintendent in West Midlands Police.

I am giving this certificate because I am of the opinion that the summary review procedure is necessary to ensure the licensing objectives are promoted expeditiously. Given the seriousness of the trigger incident on 17th September 2023, which involved a Section 18 wounding with a weapon and the breaches of premises licence by the operators on the morning of the incident, in my opinion immediate steps are required that can best be achieved through the summary review procedures. Other steps available under the Licensing Act 2003, including a standard review application, cannot lead to the imposition of immediately effective steps to promote the licensing objectives and so these are inadequate. I view this application as a proportionate and necessary response to the serious incident at the venue.

In coming to my opinion, I have had regard to the facts of the incident and current investigation, the track record of the premises, the terms of section 53A of the Licensing Act 2003 and Chapter 12 ("Summary Reviews") of the Guidance issued under section 182 of the Licensing Act 2003 (December 2022 revision).

Signed :

Dated:



BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE - A

THURSDAY 21 SEPTEMBER 2023

**Zulu Bar and Restaurant, Unit 1, 105 – 127 Brearley Street,
Newtown, Birmingham B19 3XJ**

That having considered the application made and certificate issued by a Superintendent on behalf of the Chief Officer of Police (West Midlands Police), under section 53A of the Licensing Act 2003, for an expedited review of the premises licence held by Micheal Wolde Rufael Kahsay in respect of Zulu Bar and Restaurant, Unit 1, 105 – 127 Brearley Street, Newtown, Birmingham B19 3XJ, this Sub-Committee hereby determines:

- that the licence be suspended, and
- that Micheal Wolde Rufael Kahsay be removed as the Designated Premises Supervisor

pending a review of the licence, such a review to be held within 28 days of receiving the Chief Officer of Police's application.

The Sub-Committee's reasons for imposing the two interim steps are due to the concerns which were expressed by West Midlands Police in relation to matters pertaining to serious crime and/or serious disorder, which had come to light as outlined in the Superintendent's certificate and application, in the Committee Report.

The Sub-Committee determined that the cause of the serious crime and/or serious disorder originated from a style of management which had been incapable of upholding the licensing objectives. The style of management was the responsibility of Micheal Wolde Rufael Kahsay, as premises licence holder for the Zulu Bar and Restaurant premises; he was also the person named on the licence as the designated premises supervisor. Although Mr Kahsay had been invited to the meeting, he did not attend, and was not represented.

Part of the meeting was conducted in private session after the Sub-Committee considered an application made by West Midlands Police under regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005. The Police explained that to play the CCTV evidence in public would undermine an ongoing criminal investigation as it identified the relevant patrons. The Police therefore asked for the Sub-Committee to go into private session for the playing of the CCTV evidence. The Sub-Committee agreed.

Members heard the submissions of West Midlands Police, namely that the certificate, which had been issued by a Superintendent under s53A of the Act, related to an allegation of serious crime and/or serious disorder which was said to have originated at the premises. It was the advice of the Police that a complete absence of management control had led to the incident; of particular note was the suggestion that the premises had permitted the sale of alcohol by retail before the start time permitted under the licence, namely 13.00 hours.

The Police summarised the investigation thus far – exactly as detailed in the Report. An offence under s18 of the Offences Against the Person Act 1861 had been reported, which was classed as a serious crime under s81 of the Regulation of Investigatory Powers Act 2000.

It was the advice of the Police that interim steps were required in order to deal with the causes of the serious crime and/or serious disorder. A criminal investigation was under way. The CCTV was played to the Sub-Committee. It appeared that the licence holder had been on duty in the premises at the time of the incident. Two calls to Police had been made at the time in question; one from a passer-by, and the other from a person who was thought to be connected with the licence holder.

Overall, the Police had no confidence whatsoever in the premises' ability to prevent further serious crime and/or serious disorder. It was the Police's recommendation that the incident had been so serious, and the risk to the upholding of the licensing objectives so grave, that a specific interim step was required.

The Police recommended that the correct course was to suspend the licence pending the full Summary Review hearing, for the reasons given in the Superintendent's certificate and application. Regarding the option of the removal of the designated premises supervisor, the Police were content to leave this to the discretion of the Sub-Committee, but reminded the Members that it was the responsibility of the designated premises supervisor to ensure that alcohol sales were conducted in accordance with the licence.

The Sub-Committee noted that the licence holder did not attend the meeting and was not represented; the Members therefore had no opportunity to ask him questions.

Having heard all of the evidence, the Members were mindful of the Guidance issued by the Secretary of State under s182 of the Act, which advised them to only impose those steps which were necessary to guard against the risks of further serious crime and/or serious disorder. However, the starting point was that the Members were not confident that Mr Kahsay understood his responsibilities as licence holder, and were definitely not satisfied that there was proper management control of the premises.

The Sub-Committee agreed with the Police that it was not possible to have any trust in the management of the operation, and the Members felt that they were not prepared to take any risks regarding the potential for further serious crime and/or serious disorder, pending the full Review hearing.

In deliberating, the Sub-Committee determined that there had been an allegation of serious crime and/or serious disorder, which was being investigated by Police. It was abundantly clear that the operation was not being run in accordance with the licensing objectives. An offence of wounding had been reported; this was a serious criminal offence and a clear risk to the prevention of crime and disorder objective. All in all, the management style seen at the Zulu Bar and Restaurant was not at all the standard expected of premises licence holders in Birmingham.

The Sub-Committee was not satisfied that those at the premises could be trusted to operate in a manner capable of promoting the licensing objectives. The Sub-Committee considered the options of modification of the conditions of the licence, and exclusion of the sale of alcohol by retail from the scope of the licence, but did not consider that these would adequately cover the risks, given what had been described in the Superintendent's certificate and application. Moreover, the Police had not recommended either of these as a satisfactory course for the Sub-Committee to take.

The correct way forward was therefore to suspend the licence pending the full Review hearing, as recommended by the Police. The Sub-Committee found the Police recommendation to be entirely the proper course given what had been described in the documents, and determined that it was both necessary and reasonable to impose the interim step of suspension of the licence to address the immediate problems with the premises, namely the potential for further serious crime and/or serious disorder.

The Sub-Committee noted that the Police had not made a specific recommendation regarding the designated premises supervisor. However, the Members observed that he had been on duty inside the premises at the time in question. The Members also bore in mind the Police's reminder that it was the designated premises supervisor who was specifically responsible for alcohol

sales, and noted that there had been a suggestion that alcohol sales had been conducted outside the hours permitted under the premises licence.

The Sub-Committee therefore determined that the removal of the designated premises supervisor was a very important safety feature, given that it was this individual who was responsible for the day to day running of the premises. The Members considered that Mr Kahsay had fallen far short of the standard expected, and that the style of operation described in the Superintendent's certificate and application was a significant risk to the upholding of the licensing objectives in Birmingham. Public safety was of paramount importance.

In reaching this decision, the Sub-Committee has given due consideration to the application made and certificate issued by a Superintendent of West Midlands Police, the City Council's Statement of Licensing Policy, the Guidance issued by the Home Office under s182 of the Act, the written submissions made, and the submissions made at the hearing by West Midlands Police.

All parties are advised that the premises licence holder may make representations against the interim steps taken by the Licensing Authority. On receipt of such representations, the Licensing Authority must hold a hearing within 48 hours.

All parties are advised that there is no right of appeal to a Magistrates' Court against the Licensing Authority's decision at this stage.

Licensing Review Representation

To:	Birmingham City Council Licensing Department /		
From:	Name:		
	Address:		
	Email:		
Premises to which the application relates:		Zulu Bar	
Application Reference Number (if known):			
I am:	<input type="checkbox"/> A resident, or representative thereof, living within the vicinity of the premises; <input type="checkbox"/> A Business, or representative thereof, operating within the vicinity of the premises; <input checked="" type="checkbox"/> A Responsible Authority		

Stance:	<input checked="" type="checkbox"/> I support the application for a licensing review. <input type="checkbox"/> I am opposed to the application.
Objectives:	I believe the following objective(s) are engaged / at risk: <input checked="" type="checkbox"/> Prevention of Crime & Disorder <input type="checkbox"/> Prevention of Public Nuisance <input checked="" type="checkbox"/> Public Safety <input type="checkbox"/> Protection of Children from Harm
Comments:	<p>The misuse of alcohol has serious implications for health; therefore, regulating its use is key to preventing physical and other health health-harming effects.</p> <p>The premise under review sits in Aston, one of the most deprived wards of Birmingham. It's also one of the wards where we see reported high levels of antisocial behaviour, public order, violence, and sexual offences. Most of these offences occur within a one-mile radius of the reviewing premise, an area which has more than 13 other licensed premises.</p> <p>The admission rates for violent crimes were higher than for all localities (72 per 100,000), much higher than across the city (63 per 100,000) and worse than the England average (42 per 100,000).</p> <p>The failure of the license holder to abide by his license conditions resulted in immediate harm to patrons and psychological harm to those exposed to the resulting violent act. Violence is bad for health. Alcohol use contributes to public disorder and anti-social behaviour in our communities, contributing to 40% of violent crimes in England.¹</p> <p><u>Alcohol-related violence (ARV) and public health</u> ARV also poses serious social harm because incidents with injuries frequently result in an increased burden on health services and the accident and emergency departments. ARV significantly negatively impacts physical and mental health, making it a major public health issue. Because of its many negative impacts,</p>

¹ [Local Alcohol Profiles for England - Alcohol and crime - OHID \(phe.org.uk\)](https://phe.org.uk/publications/local-alcohol-profiles-for-england)

	<p>alcohol use has a detrimental effect on several other outcomes for individuals and communities.²</p> <p>Alcohol is the biggest risk factor for death, ill health, and disability for those aged 15-49 years and the fifth biggest risk factor across all ages.³ Alcohol use has been implicated in more than 60 medical conditions, including depression, liver disease and certain cancers, including mouth, throat, stomach, liver, and breast.⁴</p> <p>Over 10% of the assault wounds treated in UK A&E departments involved bar glass. In addition to bodily harm, other effects include psychological and emotional anguish.</p> <p>Hospital admissions for alcohol-related harm in Birmingham are worse than the average for England. This represents 6,748 admissions per year. The rates of hospital admissions (64.7%) for violence for ages 16-64 are worse than the England average (42.9%). The healthcare cost of alcohol misuse is estimated to be as much as £3.5bn per year.⁵</p> <p>In 2020, Birmingham's alcohol-related mortality rate was 44 per 100,000, higher than England's 37.8 per 100,000.⁶ It also had a higher alcohol-specific death rate (17.3 versus 13 per 100,000, respectively).</p>
Declaration:	The information provided in this proforma is true to the best of my knowledge and belief. I understand that my representation will be provided to the applicant/licence holder in full and that my name and stance regarding this application will be published in publicly available committee papers, for which I will be invited to attend.
Signed:	<p>X</p> <hr/> <p>Sherine Edwards-Dodd Senior Public Health Officer</p>
Date:	

² [The range and magnitude of alcohol's harm to others: a report delivered to the Five Nations Health Improvement Network \(publishing.service.gov.uk\)](#)

³ Office for Health and Disparities [Local Alcohol Profiles for England.](#)

⁴ Office for Health and Disparities [Local Alcohol Profiles for England.](#)

⁵ Office for Health Improvement and Disparities [Public Health Profiles.](#)

⁶ Office for Health and Disparities [Public Health Profiles.](#)



Licensing Act 2003

Premises Licence

Premises Licence Number	5185
--------------------------------	------

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description Zulu Bar & Restaurant , Unit 1, 105 Brearley Street, Birmingham, B19 3XJ
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 Playing of Recorded Music

Times the licence authorises the carrying out of licensable activities

Sale of Alcohol by retail:		
Day	Start Time	End Time
Monday	13:00	01:00
Tuesday	13:00	01:00
Wednesday	13:00	01:00
Thursday	13:00	01:00
Friday	13:00	03:00
Saturday	13:00	03:00
Sunday	13:00	01:00
Place:		
Seasonal Variations:		
Non-Standard Times:		

BIRMINGHAM CITY COUNCIL

Provision of Late Night Refreshment:		
Day	Start Time	End Time
Monday	23:00	01:00
Tuesday	23:00	01:00
Wednesday	23:00	01:00
Thursday	23:00	01:00
Friday	23:00	03:00
Saturday	23:00	03:00
Sunday	23:00	01:00
Further Details:		
Place:		
Seasonal Variations:		
Non-Standard Times:		

Playing of Recorded Music:		
Day	Start Time	End Time
Monday	13:00	01:00
Tuesday	13:00	01:00
Wednesday	13:00	01:00
Thursday	13:00	01:00
Friday	13:00	03:00
Saturday	13:00	03:00
Sunday	13:00	01:00
Further Details:		
Place:		
Seasonal Variations:		
Non-Standard Times:		

The opening hours of the premises		
Day	Start Time	End Time
Monday	13:00	01:00
Tuesday	13:00	01:00
Wednesday	13:00	01:00
Thursday	13:00	01:00
Friday	13:00	03:00
Saturday	13:00	03:00
Sunday	13:00	02:00
Seasonal Variations:		
Non-Standard Times:		

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

Part 2

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

Michael Wolde Rufael Kahsay

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

N/A

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

Mr Micheal Wolde Rufael Kahsay

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: 168054

Issuing Authority: BIRMINGHAM

Dated 19-09-2023

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 glorify 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 pence, 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.

Annex 2 – Conditions consistent with the Operating Schedule

The premises licence holder shall ensure staff are trained as appropriate in respect of relevant licensing law.

All staff will be trained in their responsibility of the licensing act, challenge 25 policy and premises licensing objectives. This training will be documented and signed by both the trainer and trainee. No staff, with the exception of personal licence holders to work at the premises without this documented training. Staff training records will be made immediately available to any of the responsible authorities on request.

Any person who appears drunk /aggressive will not be permitted on the premises.

The Designated Premises Supervisor and their staff will at all times remain aware of their responsibilities for the prevention of crime and disorder on the premises and demonstrate a responsible attitude to the marketing and sale of alcohol.

CCTV to be installed / updated to the specifications and recommendations of West Midlands Police. CCTV signage will be prominently displayed on the entrance door.

Customers may not take any drinks past the boundary of the building.

When regulated takes place the DPS or their nominated will conduct a noise assessment outside of the premises to ensure and regulated entertainment is not causing a statutory noise nuisance. These assessments are to be documented and signed by the person making the assessment. The assessments are to be made immediately available to any of the responsible authorities.

The premises license holder will ensure that a trained member of staff will be on duty and be available to download the CCTV to any of the Responsible Authorities.

The premises licence holder shall ensure CCTV is installed inside the premises. CCTV will be recording at all times the premises are open for any licensable activities and images will be held for a minimum of 28 days and made available immediately on request by any of the Responsible Authorities.

The licensable hours for all licensable activity at the premises will finish at 00.30hrs Sunday to Thursday and 03.00hrs Friday & Saturday nights. The premises will be clear of all customers half an hour after the termination time for licensable activity.

The premises will supply West Midlands Police with a full written risk assessment prior to commencement of the premises licence for their normal operating procedure / evenings. If the premises wish to operate outside their norm then they will supply West Midlands Police a minimum of 28 days notice and a full written risk assessment a minimum of 21 days prior to the event. West Midlands Police will have the power of veto on any event outside their normal operating risk assessment if they believe any of the licensing objectives will be compromised.

On Friday and Saturday nights when trading past midnight the premises will employ door staff from no later than 22.00hrs until all customers have dispersed at closing. Door staff will sign on and off duty. Door staff profiles will be kept on the premises for no less than 3 months. Profiles to include a copy of their SIA badge and utility bill no less than 3 months old. If a utility bill not available then a copy of photographic ID either passport or driving licence. Door staff signing in sheets and profiles will be made immediately available to any of the responsible authorities on request. Door staff will wear a fluorescent tabard or jacket while on duty at the premises.

The premises will keep an incident log. All incidents of crime, disorder and anti-social behaviour will be entered into the log irrespective as to whether the emergency services are called or not.

Last entry to the premises will be 01.30 Friday & Saturday nights. Signage to be displayed on the entrance door informing customers of this.

Doors and windows will be kept closed as deemed necessary by the Designated Premises Supervisor.

All deliveries will be received during daytime prior to 6pm to control noise nuisance.

BIRMINGHAM CITY COUNCIL

The Designated Premises Supervisor will arrange to monitor levels from both inside and outside the premises and remedial action will be taken as appropriate.

Floor staff will conduct physical sweep inside the premises to remove hazardous objects/waste as deemed necessary by the premises licence holder.

The premises licence holder shall fully support any directives received from the authorities.

A Challenge 25 policy will be strictly followed by all staff.

Challenge 25 signage to be displayed on the entrance door and bar serving area.

No children under the age of 18 will be allowed on the premises after 18.00 without an appropriate adult. Staff not to be left in sole charge of any child.

Staff on duty will be trained and made aware of a challenge 25 policy and the requirements and the need to demand an acceptable form of age ID.

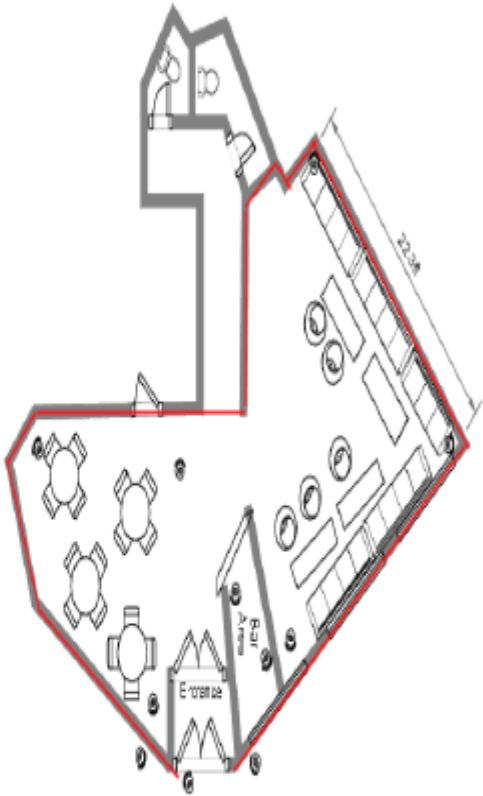
No adult entertainment is permitted at these premises.

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

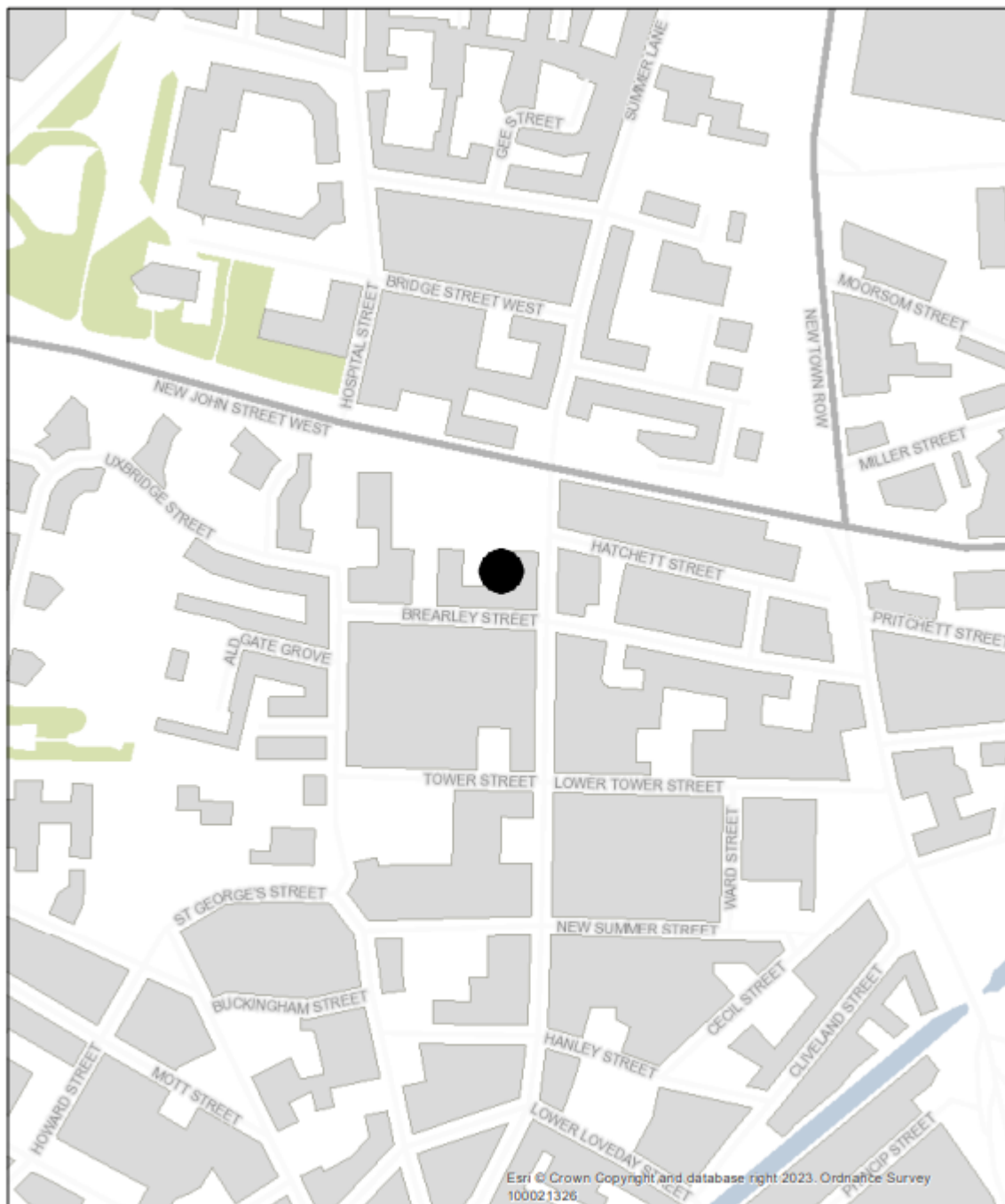
N/A

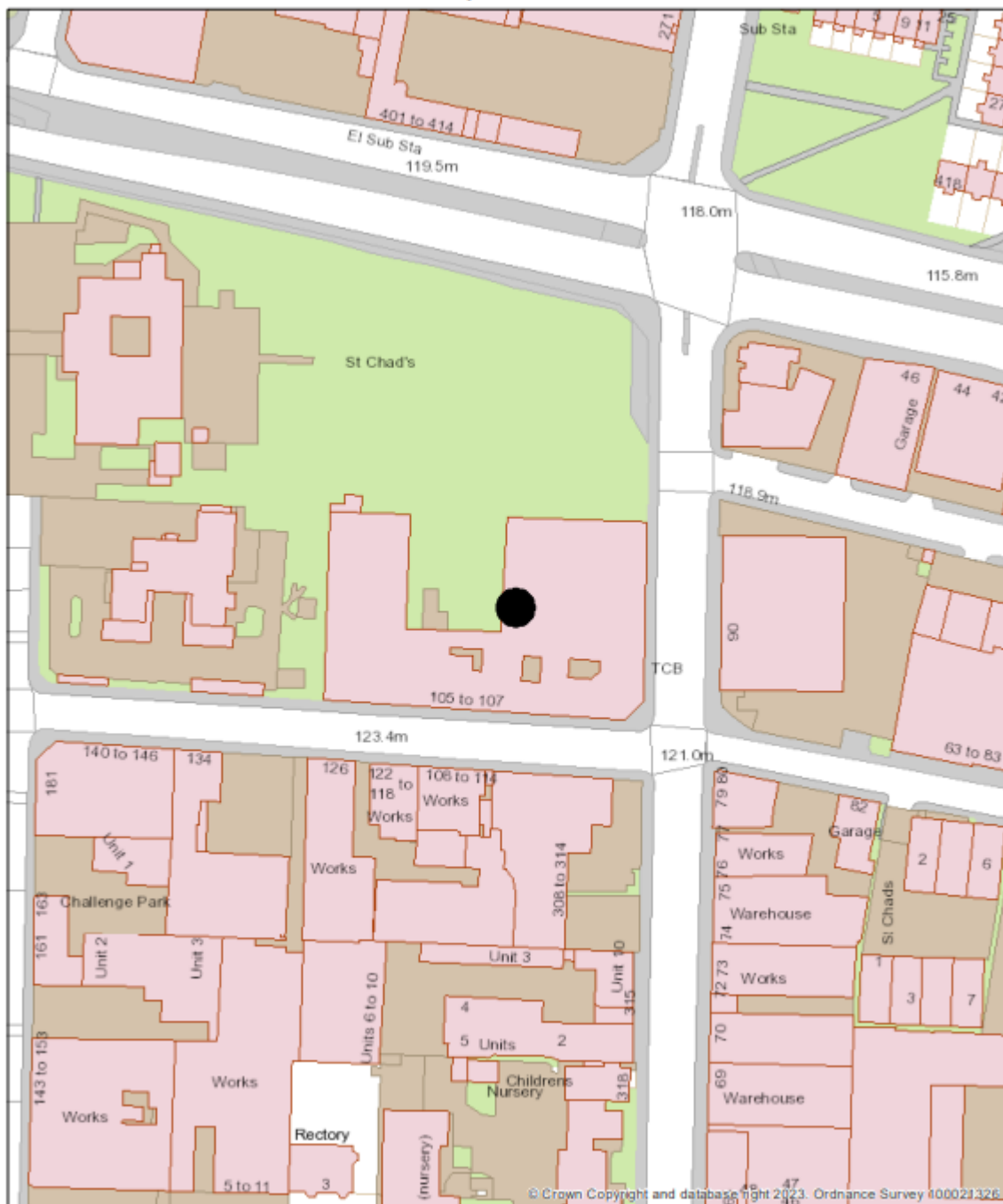
Annex 4 – Plans

Plan Reference; - 169440 as attached.



Key:		Scale/Plan	1:100 @ A4
Accessible Area		Premises Details	
CCTV			
Client		By	
Samuel Tipton		Mojib Rahman	
		Date	May 2021
		Premises Details	
		Habesha Village	
		Unit 1, 115 Searley St, Birmingham, B19 2JL	





From: Kerry cox
Sent: 15 October 2023 19:14
To: Licensing ; Licensing Online
Subject: Zulu hearing - 16th October 2023 - Agreed condition with WMP
Importance: High

Good evening,

Regarding the hearing tomorrow for Zulu, I have been in discussions with WMP, and the following condition has been agreed to modify the current training condition on the premises licence:

TRAINING

- *Training in relation to the Licensing Objectives and the conditions on the premises licence, Challenge 25, under age sales, sales to adults on behalf of minor (proxy sales), sales to intoxicated persons, refusals registers and incident records must be provided and undertaken by all members of staff (whether paid or unpaid) before he / she makes a sale or supply of alcohol and at least every six months thereafter.*
- *Documented training records must be completed in respect of every member of staff and must include the name of the member of staff trained, date, time and content of the training. The record must be signed by the member of staff who has received the training, the Designated Premises Supervisor, the Premises Licence Holder or external training providers.*
- *Documented training records must be kept at the premises and made available to West Midlands Police or an Officer of a Responsible Authority on request, or during an inspection.*

Kind regards,
Kerry Cox

Associate of Duncan Craig (Barrister)
Licensing 182 Limited

