

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C

WEDNESDAY, 17 APRIL 2024 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 note the public part of the Minutes of the meeting held on 10 January 2024 at 1000 hours and to confirm and sign the Minutes as a whole.

To note the public part of the Minutes of the meeting held on 14 February 2024 at 1000 hours and to confirm and sign the Minutes as a whole.

To note the public part of the Minutes of the meeting held on 28 February 2024 at 1000 hours and to confirm and sign the Minutes as a whole.

To note the public part of the Minutes of the meeting held on 28 February 2024 at 1200 hours and to confirm and sign the Minutes as a whole.

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5 **LICENSING ACT 2003 PREMISES LICENCE – REVIEW SIMPLY LOCAL, 84 NEW STREET, BIRMINGHAM, B2 4BA**

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

P R I V A T E A G E N D A

1 **MINUTES**

To note the private part of the Minutes of the meeting held on 28 February 2024 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

<p>LICENSING SUB-COMMITTEE C 10 JANUARY 2024</p>

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD
ON WEDNESDAY 10 JANUARY 2024 AT 1000 HOURS AS AN ON-LINE
MEETING.**

PRESENT: - Councillor Sam Forsyth in the Chair;

Councillors Penny Wagg and Jilly Bermingham

ALSO PRESENT

Bhapinder Nandra – 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)

1/210923 **NOTICE OF RECORDING/WEBCAST**

The Chair advised that this meeting would 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.

2/210923 **DECLARATION OF INTERESTS**

There were no interests declared.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/210923 None submitted.

**LICENSING ACT 2003 TRANSFER PREMISES LICENCE – S & B STORES, 1 -
3 COLLEGE ROAD, HANDSWORTH WOOD, BIRMINGHAM, B20 2HU**

On Behalf of the Applicant

Adrian Curtis - Solicitor

Hardeep Kaur– Applicant
Gurdeep Singh – License Holder

Those Making Representations

Chris Jones (WMP) – West Midlands Police.

* * *

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

The Chairman then explained the hearing procedure prior to inviting the Licensing Officer, Bhupinder Nandra, to outline the report.

The Chair invited Adrian Curtis to make their submissions, at which the they made the following points: -

- a) Found it unusual for a hearing considering there are few and far between objections by West Midlands Police on transfer applications.
- b) This license should have been transferred months ago. The association between the two families Mrs Hardeep Kaur, the landlord and the freeholders that used to run the shop are very close. The husband worked with Gurdeep Singh for many years and over a long period of time, did a transfer effectively of the business to be run by Mrs Hardeep Kaur.
- c) In the background there is a code review application which is outstanding and waiting to be decided upon. The hearing is listed in 2 weeks time where either the committee or another committee of Birmingham will delve into the facts of that review application which has been brought by Trading Standards. The basis is listed in the witness statement provided by Officer Jones, that the 96 vapes were seized from the premises. There are other circumstances indicated in them of the application which will be responded to at the review application. This isn't a review hearing of the transfer of the license.
- d) The license should remain in Mrs Hardeep Kaur's name effectively, and be granted to be transferred into her name. Therefore she can then be the person to respond properly to the application by Trading Standards on the review application.
- e) Each of the points raised in that review application will be responded to at the substantive review hearing.
- f) Mrs Kaur holds a personal license issued by Birmingham City Council, she did her Level 2 training certificate for personal license holders. Furthermore, she does not have a criminal record.

The Chair asked Mr Curtis if he was in the office so he could scan the documents to the committee. Mr Curtis confirmed that he was in the office however, the license document is on the web already. Bhupinder confirmed this.

The license holder Gurdeep Singh made the following points:

- a) Mr Singh hardly worked for the business, he slowly took over the shop.
- b) There was a small delay regarding the transfer of ownership.

c) Gurdeep stated the transfer was a complete oversight on his part.

Adrian Curtis stated that the relationship between the freeholder and the leaseholder is a close one, there was a very slow handover of the business because it was building up and paying for the bank purchase of the business. The license should be in Hardeep's name as she was the person who was involved.

The Chair asked members if they had any questions. Councillor Wagg asked that if it was a slow handover, 19 months was very slow for the transfer to be made. Were there any actions being taken before this with Trading Standards or did it start when Trading Standards got involved?

Mr Curtis replied and stated that it is on the record with Birmingham City Council. An application was put in over a year ago which was rejected as it wasn't done correctly.

The Chair asked members if they had any further questions. Members did not have anything to ask.

The Chair invited those making representations to make their submissions, at which Chris Jones made the following points: -

- a) Chris Jones stated that he agreed with Mr Curtis' points with regards to it being very unusual for WMP to object to a transfer application for premises. This shows the concerns we have for the application.
- b) WMP received the application transfer on 4th December from Hardeep Kaur.
- c) The transfer application was received 5 days after WMP had received a premises license review application submitted by Trading Standards after they had seized a number of illegal vapes which were on sale at the premises.
- d) In the evidence bundle the review application is on pages 3 to 9 of evidence that was submitted in an email on 5th January 2024. On that review paperwork it stated that Gurdeep Singh was the premises license holder when the vapes were seized in 2023 and when the review paperwork was submitted in December 2023. The current license holder was Gurdeep Singh, the applicants for this transfer didn't identify themselves to Trading Standards as being in charge of the premises on 2 occasions on an initial visit by them in August 23rd and again when the illegal vapes were seized in November 2023.
- e) On the visit on November 23rd, Mr Singh identified himself to Trading Standards as being the owner.
- f) The initial visit for Trading Standards on August 23rd was prompted by complaints received from concerned members of the public who believe there was illegal or illicit activity on the premises.
- g) On the visit on August 23rd Trading Standards did not mention any illicit vapes on sale at the premises. However, on November 23rd, illegal vapes that were openly onstage in the premises were seized by trading standards approximately 3 months after the first visit case which suggests that the illegal vapes were made for sale at the premises between the 2 trading standards visits and therefore when the applicant states that she was in charge of the premises. This has been after Hardeep Kaur had been given advice and left a trader's notice by Trading Standards on the sale of illicit or illegal items.

- h) On receiving the transfer application on the 4th December 2023, it was noted that Hardeep Kaur wanted the transfer to start from the 23rd February 2022. Prior to the two Trading Standards visits. This was presumed a mistake on the application and the applicant was spoken to on the phone, over the phone Hardeep stated that the date of February 22nd was the date she took over the business. This meant that the applicant had responsibility for running the shop nearly 19 months before the transfers application was submitted and would have had responsibility for the premises when trading standards received the initial complaints from the public, they were concerned of that they believed to be illicit or illegal activity in the premises and responsibility for stocking the illegal vapes which were seized by Trading Standards.
- i) WMP are concerned as to why the applicants submitted the transfer application approximately 19 months after taking control of the business and 5 days after a premises license review application was submitted for Trading funds.
- j) WMP are concerned the applicant ignored a voicemail given by Trading Standards in August 20 2023 when a traders notice was left.
- k) WMP have little confidence in the applicant's ability to promote the licensing objectives and therefore reject objectively transfer application on the prevention of crime and disorder losses in objectives, cases.

The Chair asked members if they had any questions. No questions were asked.

The Chair then invited the parties to make a closing submission.

Chris Jones made the following closing statements: -

- If the applicant had transferred the premises license 19 months ago when she took over the business, it would be her name on the review paperwork submitted by Trading Standards. However, she has failed to do this.
- By Hardeep's own admission, she was in charge of the premises for a considerable amount of time prior to the incidents that promoted the visit to the shop.
- WMP cannot support this application to take over the premises license when we have no confidence in her ability to uphold the licensing objectives, especially around the prevention of crime and disorder.

The Chair invited Adrian Curtis to make his closing submission: -

- We have volunteered all the information regarding the oversight which should have been done, this has been clear all the way thought any interactions with responsible authorities visiting the shop and has not been hidden.
- The license should have been in Mrs Kaur's name so she was the person dealing with the allegations.
- There are detailed circumstances regarding the purchase of these vapes that needs to be dealt with. There were not many vapes left at the premises. The vapes that were not seized were legal.
- Clients were duped as the vapes were not regulated as they had no nicotine in them. They were misled and made a poor decision.

- Ask the committee to keep the status quo as it has been since 4th December and then the right person will respond to the review application in two weeks time.
 - The license has been in Mrs Kaur's name legally since 4th December.
-

5/210923

RESOLVED:-

That the application by Hardeep Kaur for the transfer of the premises licence under section 42 of the Licensing Act 2003 (the "Act"), in respect of S & B Stores, 1 – 3 College Road, Handsworth Wood, Birmingham B20 2HU, be rejected, on the grounds that the application to transfer would undermine the crime prevention objective in the Act, as the Sub-Committee was not confident, after hearing submissions from both sides, that the applicant was capable of upholding it.

The Sub-Committee considered the documents in the Committee Report carefully. The applicant Mrs Hardeep Kaur attended the meeting, as did the current premises licence holder Mr Gurdeep Singh Samrai; they were represented by a solicitor. Also in attendance were West Midlands Police, who had made representations against the application.

The Sub-Committee heard submissions from the solicitor for the applicant, who explained that such hearings were rare, and that the Guidance was that the Police should only make objections in truly exceptional circumstances. He advised the Sub-Committee that the instant case was unusual because of the background around the premises licence.

The solicitor confirmed that it was accepted by Mrs Kaur and Mr Samrai that there had been an oversight, and that the licence should have been transferred many months ago. Mrs Kaur's husband had worked with Mr Samrai for many years, and "over a long period of time did a transfer effectively of the business, to be run by Mrs Kaur as the licensee".

The solicitor further explained that the Police had decided to make a representation against the transfer application because a Review of the licence was due to come before the Sub-Committee in around two weeks' time. The Review application was being brought by Trading Standards, on the basis of unsatisfactory trading relating to illegal vapes.

The solicitor reminded the Sub-Committee that the instant hearing was solely to consider the transfer application, and was not a Review of the licence. The Members accepted that it was important to focus solely on the transfer application.

The solicitor confirmed that Mrs Kaur's position was quite straightforward – namely that, due to an oversight, the licence had not been transferred, and it should have been. Mrs Kaur hoped that once the application was granted, and the licence was transferred into her name, she could then be the person to respond properly and substantially to the forthcoming Review of the licence brought by Trading Standards. The solicitor considered that this would be a type of regularisation of the licence, such that the correct person would be defending the licence at the forthcoming Review hearing.

The solicitor confirmed that Mrs Kaur was a personal licence holder (issued by Birmingham City Council), and had no criminal record. The forthcoming Review matter had “not been fully engaged, fully investigated yet, or responded to”, he said. The applicant was simply asking the Sub-Committee to permit the transfer in order that the correct person could respond to the allegations in the forthcoming Review matter.

Mr Samrai then addressed the Sub-Committee, to confirm that Mrs Kaur’s husband had worked for him for a number of years, and had then slowly taken over the shop. There had been a delay over the transfer of the ownership, as paying for the purchase of the business had gone on across a very long period of time. Mr Samrai described the delay in arranging the transfer as “just a complete oversight”.

The Members observed that a period of nineteen months (for the transfer application to have taken) was very slow. Mr Samrai confirmed that an application had been submitted a year earlier, but it had been rejected because it had not been completed correctly. Thereafter, the application had “fallen off the radar”, said the solicitor, and this had been an oversight.

The Sub-Committee then heard from West Midlands Police, who confirmed that to make representations against a transfer application was unusual, and therefore the instant objection showed the level of concern which the Police had regarding the application. The Police fears were based on the Review matter which had been submitted by Trading Standards.

The Police directed the attention of the Sub-Committee to their documents, which were in the Committee Report. The investigation conducted by Trading Standards had been prompted by complaints from members of the public, who suspected that illicit activity was perhaps going on at the premises; thereafter, illegal vape products had been discovered to be on display for sale to customers, and had been seized by officers. Mrs Kaur had identified herself to Trading Standards as the person in charge of the premises, on two occasions. The Sub-Committee noted this.

Upon receiving the transfer application on the 4th December 2023, the Police had noted that Mrs Kaur had requested that the transfer should start from 23rd February 2022, and also noted that she said to the Police that this was the date on which she took over the business. The Police remarked that Mrs Kaur had therefore had responsibility for running the shop for nearly nineteen months before the transfer application had been submitted, and moreover she would have had responsibility for the premises when Trading Standards received the initial complaints from the public.

The Police had concerns as to why Mrs Kaur had submitted the transfer application 19 months after taking control of the business, and five days after a premises licence review application had been submitted by Trading Standards. The Police were not confident that Mrs Kaur’s decision-making was satisfactory, given that the premises appeared to have stocked illegal vapes for sale, and also that she had seemingly ignored advice given by Trading Standards, who had issued her with a Trader’s Notice during a visit in August 2023.

Accordingly, West Midlands Police had little confidence in the applicant's ability to promote the licensing objectives, and objected to the transfer of the licence in the interests of ensuring the upholding of the prevention of crime and disorder objective.

When summing up, the solicitor observed that "nothing new" had been heard in the submissions from West Midlands Police. He asked the Sub-Committee to note that Mrs Kaur and Mr Samrai had volunteered information about the oversight, and had accepted that the transfer should have been done promptly; moreover, they had taken this approach all the way through all interactions with any responsible authorities visiting the shop. There had been no attempt to hide anything, and the position was simply that the transfer should have been done, but had not been.

The solicitor asked that the licence should be in Mrs Kaur's name "so she can then be the person dealing with the allegations of what has happened in relation to the Review application". He observed that the circumstances regarding the vape stock needed to be addressed at the Review hearing. He stated that the application was simply to regularise the position in order that Mrs Kaur would be the person facing the Review proceedings, not Mr Samrai. He urged the Sub-Committee to note that there was "no further evidence of anything illicit, illegal or any other allegations that that we are aware of that have come up since that date".

Finally, the Sub-Committee heard briefly from Mrs Kaur, who stated that "we have spent all our savings" on the shop, had three children, and also remarked that it was difficult to deal with these types of issues. She asked that the Sub-Committee grant the application ready for the Review hearing.

The Sub-Committee was aware that in exceptional circumstances, where the Police believed that a transfer might undermine the crime prevention objective, the Police could object to a transfer. Such objections were expected to be rare, and to arise only because the police had evidence that those seeking to hold the licence were involved in some way in crime and/or disorder. Therefore, when deliberating, the Sub-Committee paid very careful attention to the advice of West Midlands Police, who had objected to the transfer on the grounds of the prevention of crime and disorder.

Having considered the submissions of the Police, the Members found themselves quite unable to be certain that the Mrs Kaur was capable of promoting the crime prevention objective properly. The Members noted that the Police had been unimpressed that the application had been submitted some 19 months late. Moreover, the Police had pointed out that it appeared that Mrs Kaur had not followed the advice she had been given in the Trader's Notice. This was wholly unsatisfactory given that the grant of the transfer application would make her responsible for the upholding of the licensing objectives at the premises.

The Sub-Committee also looked askance at the earlier transfer application, which had been submitted in an incomplete form, such that it could not be granted. Nothing further had been done to correct and resubmit the form at that time - yet the reason given by the applicant for the application submitted on 4th December 2023 was that Mrs Kaur wanted the position to be 'regularised'. This was not persuasive, given that a period of around a year had passed. The Sub-Committee

took on board the Police's observation that the instant application had been made five days after the Review application had been submitted by Trading Standards.

The Sub-Committee noted that a Review application would in due course come before one of the Licensing Sub-Committees; whilst not taking any view on the particulars of that Review matter, the Sub-Committee noted that the advice of the Police was that the transfer application should be rejected because the crime prevention objective had not been upheld. The Police were the experts in the prevention of crime and disorder, and the Sub-Committee therefore noted their recommendation.

All in all, whilst the Sub-Committee carefully considered the submissions made by all those representing the applicant, the Members could not agree that those submissions ought to justify the grant of the application. To permit the transfer would send a message that unsatisfactory arrangements were not a serious matter - on the contrary, they were indeed a serious matter. There had been an inordinate delay of 19 months, and Trading Standards had found the operating style to be quite unsatisfactory. The Police submissions, dealing with the history of trading at the premises (as per the Committee Report), had demonstrated to the Sub-Committee that there were significant grounds for believing that the transfer of the licence would undermine the crime prevention objective. The Sub-Committee therefore considered that there would be a clear risk to the crime prevention objective to permit the transfer.

It had been the strong advice of the Police that the application should be rejected. Regard was also given to paragraphs 8.99 - 8.102 of the Guidance issued under section 182 of the Act by the Secretary of State, and when deliberating the Sub-Committee considered that a refusal in this instance would be an appropriate and proportionate response in all the circumstances. Accordingly, the Sub-Committee determined that the correct course was to reject the transfer application, in order to ensure that the crime prevention objective was not undermined.

In reaching this decision, the Sub-Committee gave due consideration to the information contained in the application, the objection notice submitted under section 42(6) of the Act, and the submissions made at the hearing by the solicitor to the applicant, by the licence holder, by the applicant herself, and by West Midlands Police.

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.

Please note the meeting ended at 11:55 hours.

CHAIR.....

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C 14 FEBRUARY 2024

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 14 FEBRUARY 2024 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Sam Forsyth in the Chair;

Councillors Jilly Bermingham and Penny Wagg.

ALSO PRESENT

Bhapinder Nandhra – Licensing Section
Jane Sarginson – Legal Services
Katy Poole – Committee Services

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

1/140224 **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.

2/140224 **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.

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

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APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/140224 No apologies were submitted.

**LICENSING ACT 2003 – TEMPORARY EVENT NOTICE – STIRCHLEY
EVENTS, WHARFSIDE LEISURE COMPLEX, 7 LIFFORD LANE,
BIRMINGHAM, B30 3JH.**

On Behalf of the Applicant

The applicant did not attend.

On Behalf of Those Making Representations

Ben Reader – WMP (West Midlands Police)

* * *

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 advised that the applicant was not present at the hearing and therefore, the Committee would hear the submission from WMP. Ben Reader, on behalf of WMP made the following points: -

- a) The applicant applied for the TEN and detailed that it would be a light, indoor style festival. Friday and Saturday night would have a DJ with a later finishing time.
- b) The genre of music is Scar and Reggae.
- c) That his colleague Mark Swallow had been dealing with the application and had contacted the applicant to request a risk assessment and requesting that the operating conditions from the current licence be carried over to the TEN event. However, he did not get a response from the applicant.
- d) There had been no further contact from the applicant.
- e) Mark Swallow had sent an email and made two telephone calls.
- f) It would have been helpful if the applicant had attended the hearing.

- g) Due to the lack of contact and failure to provide a risk assessment WMP requested that the TEN be refused.

The Chair then invited WMP to make a closing submission, Ben Reader advised that he had nothing further to add.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and the short decision was announced at the meeting. A full written decision of the Sub-Committee was sent to all parties as follows;

4/140224 **RESOLVED:-**

That, having considered the objection notice from West Midlands Police in respect of the temporary event notice, as submitted by Steven Davis, the premises user, for an event to be held between 31st May 2024 – 1 June 2024 at Stirchley Events, Wharfside Leisure Complex, 7 Lifford Lane, Birmingham, B30 3JH this Sub-Committee determines that a Counter Notice be issued under Section 105 of the Licensing Act 2003.

The Sub-Committee's reason for issuing a Counter Notice is to prevent the temporary event from taking place to promote the prevention of crime and disorder / prevention of public nuisance licensing objective in the Act.

The Sub-Committee were of the opinion that allowing the event to proceed at the premises in the absence of a risk assessment and the failure to agree with the police that the imposition of the conditions already in place for the existing license were necessary, would run the risk of the premises being the focal point for crime and disorder in connection with the proposed event and causing unnecessary disturbance to neighbouring residents.

As the premises user did not attend the hearing and provided no representations, the Sub-Committee were not confident that the proposed event could run well / the premises user could overcome the concerns raised in evidence presented by the Responsible Authority.

Therefore the Sub-Committee were satisfied that on the balance of probabilities crime and disorder / public nuisance would arise in connection with the proposed event at the premises

The Sub-Committee therefore determined that it would be appropriate to reject the temporary event notice for the promotion of the prevention of crime and disorder / prevention of public nuisance licensing objective in the Act.

The Sub-Committee has had regard to the evidence, argument and submissions placed before it, in addition to the report, Section 182 – Home Office Guidance and its own licensing policy.

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. No appeal may be brought later than five working days before the day on which the event period specified in the Temporary Event Notice begins.

The meeting ended at 1019 hours.

CHAIR.....

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C 28 FEBRUARY 2024

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 28 FEBRUARY 2024 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Sam Forsyth in the Chair;

Councillors Julien Pritchard and Penny Wagg.

ALSO PRESENT

David Kennedy – Licensing Section
Andrew Evans – Legal Services
Katy Poole – Committee Services

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

1/280224 **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.

2/280224 **DECLARATION OF INTERESTS**

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APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

- 3/280224 Apologies were submitted on behalf of Councillor Bermingham and Councillor Pritchard was the nominated substitute Members respectively.
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MINUTES

- 4/280224 The Minutes of the Meeting held on 7 February 2024 at 1200 hours were circulated and confirmed and signed by the Chair.

The Public section of the Minutes of the meeting held on 7 February 2024 at 1000 hours were circulated and the Minutes as a whole were confirmed and signed by the Chair.

**LICENSING ACT 2003 PREMISES LICENCE – GRANT – RESTAURANT
RAHYA, 44A BARKER STREET, LOZELLS, BIRMINGHAM, B19 1EP.**

On Behalf of the Applicant

Rob Edge – Agent

On Behalf of Those Making Representations

Mohammed Ali – Objector

* * *

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 asked the applicant to make her representation, Rob Edge, on behalf of the applicant made the following points: -

- a) That the applicant sent his apologies, he had an unavoidable family emergency to attend to.
- b) They had given full regard to the representation made against the application, the Licensing Objectives, Licensing Act 2003, Birmingham City Council's Statement of Licensing Policy and the Home Office Guidance under Section 182 of the Licensing Act.

- c) Mr Edge had tried to make contact with the objector on two separate occasions the try and find some middle ground.
- d) The representation made by the objector was based on the original application for longer hours – the hours had been reduced in agreement with West Midlands Police.
- e) The representation regarding noise and anti-social behaviour was not supported by Environmental Health or West Midlands Police.
- f) The issue regarding parking was not in the remit of the Licensing Committee, however it would be addressed in any way possible.
- g) The objector also raised concerns about West Midlands Police being over stretched, yet they had agreed over 14 conditions and limited the licensable activity in agreement with the police and entertainment was deregulated.
- h) The amended application would not give cause for concern.
- i) The applicant would liaise with residents to ensure they worked in harmony.
- j) The additional photographs submitted by the objector showed the commercial waste bin outside on the pavement, stating it is unsightly and in a bad place. The premises was undergoing a full refurb and therefore the waste bin was outside more than usual. The bin had a designated alcove and would only be out for collection days.
- k) There had been issues with fly tipping due to the premises being closed, however, it had been reported through the City Council's website.

The Chair invited the objector to make their presentation, Mohammed Ali made the following points: -

- a) That he was aware that conditions had been agreed with West Midlands Police and most of his concerns had been addressed by those conditions.
- b) The bins had been an on-going problem for some time and the photographs demonstrated that the bin had been abandoned down the street by the previous owner.
- c) He was happy with the agreed conditions with the police.
- d) The main issue was the bin and where it would be kept.
- e) If it was kept in the alcove he would be happy.
- f) Would there be an audit process to monitor the premises and the conditions or is the application just granted. He was keen to hear what measures would be taken in that respect.

- g) The hours were a concern, but since they had been reduced he had no objection to the new hours.
- h) He was a worried resident.
- i) He wanted the pathway kept clear and no fly tipping.

The Chair invited both parties to make a brief closing submission. Mohammed Ali confirmed he had nothing more to add and therefore Rob Edge made his closing submission on behalf of the applicant. He stated that he was happy to speak with Mohammed Ali and resolve the issues regarding the bin. It would help them work in harmony and would benefit everyone.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and the short decision was announced at the meeting. A full written decision of the Sub-Committee was sent to all parties as follows;

5/280224

RESOLVED:-

That the application by **Awat Abraham Derdar** for a premises licence in respect of **Restaurant Rahya, 44a Barker Street, Lozells, Birmingham, B19 1EP**

BE GRANTED SUBJECT TO THE FOLLOWING MODIFICATIONS AND CONDITIONS agreed between the Applicant and West Midlands Police to promote the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm objectives in the Act:

HOURS

A.	Modification of hours – Alcohol (and regulated entertainment if same hours)	The hours for the supply of alcohol and provision of regulated entertainment shall apply as follows: 12.00 midday to 11.00hrs Monday to Sunday
B.	Modification of Opening hours	The premises to remain open to the public as follows: 12.00 midday to 11.30pm Monday to Sunday

CONDITIONS

- 1) The premises shall operate as a restaurant. All patrons shall be seated when consuming food and/or drinks. The premises shall not operate as a vertical drinking establishment at any time.
- 2) The premises shall have no more than 30 patrons in the licensable area at any time.

- 3) The premises will have an operational booking system in order to manage the numbers of patrons at the venue.'
- 4) Glasses and vessels are not to be taken outside at any time.
- 5) All music played within the premises shall be at background level only, and shall not cause a noise disturbance at any residential and/or noise sensitive properties.
- 6) All doors and windows are to remain closed whenever music is being played, save for access to and egress from the premises.
- 7) The premises will have a phone number available to local residents whenever licensable activities are being carried on, in order to respond to any concerns or complaints. This phone number will be distributed to residential properties in the immediate vicinity and published on any website directly associated with the premises.
- 8) The premises licence holder is to design and keep in writing, available for inspection by responsible authorities, a management plan to deter loitering by patrons in the vicinity of the premises.
- 9) If for any reason the CCTV hard drive needs to be replaced the previous / old hard drive will be kept on site for a minimum of 28 days and made immediately available to any of the responsible authorities on request. The CCTV will be checked to ensure that it is working each week. This information will be stored for 12 weeks and made available to any of the responsible authorities on request.
- 10) The premises will operate an incident register. Each entry will be signed off by the DPS or their nominated deputy. The register will be made available to any of the responsible authorities on request.
- 11) Staff members are to receive documented refresher training at least once every 12 months. These training documents are to be kept at the premises and made available to any of the responsible authorities on request.
- 12) No persons who worked at the premises under premises licence number 1086 are to be involved in the management or control of the premises.
- 13) Prominent notices are to be displayed at the premises reminding patrons that they must not park illegally and to be considerate of other road users and residents.

The Sub-Committee determined to impose these modified hours and volunteered conditions due to the representations made by a local resident Mr Ali and the agreement previously reached between the Applicant and West Midlands Police.

The Sub-Committee took into account the nature of the area in which the premises is located which is primarily residential.

The Sub-Committee listened to the representative for the Applicant, Mr Edge who explained that this was an application for a Restaurant led business with hours that

had been substantially reduced as to hours by agreement with the Police, and the addition of a long list of agreed conditions. In addition to the operating schedule, it was submitted that the application as it now stands is sufficiently robust to promote the licensing objectives. It was also stated that there had been attempts to engage with Mr Ali to address his concerns. The Applicant stated that while they would use their best endeavours to minimise the impact of the licence on local residents, parking problems did not engage a licensing objective and the alleged problems with a commercial bin complained of were temporary and would be solved by its permanent location in an alcove once refurbishment works were completed.

The Sub-Committee heard an amplified representation from Mr Ali. Mr Ali confirmed that he was now content with the revised hours and proposed conditions and did not object to the licence being granted subject to them, albeit he was still concerned with problems around waste emanating from the premises, the positioning of bins and the risk of fly-tipping. He was also concerned about parking around the premises.

The Sub-Committee took into account the position of the Police, who are their main source of advice on crime and disorder (including anti-social behaviour) in that they withdrew their representation in light of the agreement previously reached with the premises.

In respect of Mr Ali's representation, it was noted that the Applicant's agent had engaged with Mr Ali in an attempt to allay his concerns but had not been wholly successful. The Applicant confirmed through his agent that he would continue to liaise with Mr Ali and residents going forwards and the Sub-Committee was pleased to hear that the Applicant had stated his clear intention to continue to listen to and work in partnership with residents who might be affected by the operation of the licence.

In respect of the parking concern the Sub-Committee agreed with the Applicant that a licensing objective was not engaged and that no further conditions were appropriate or proportionate beyond the condition relating to signage volunteered by the Applicant.

In balancing the representation of Mr Ali and the representation of the Applicant concerning waste management, the Sub-Committee did not consider it appropriate or proportionate to add a condition relating to waste management to the premise licence to promote the prevention of public nuisance licensing objective.

The Sub-Committee considers the modified hours and conditions to be imposed voluntarily to be appropriate, reasonable and proportionate to address any and all concerns raised at this time.

In addition to the above conditions, those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued.

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 information in the

application, the written representations received and the submissions made at the hearing by the Applicant's representative and a local resident Mr Ali.

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

6/280224 **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.....

8BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C 28 FEBRUARY 2024

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD
ON WEDNESDAY 28 FEBRUARY 2024 AT 1200 HOURS AS AN ON-LINE
MEETING.**

PRESENT: - Councillor Sam Forsyth in the Chair;

Councillors Julien Pritchard and Penny Wagg.

ALSO PRESENT

David Kennedy – Licensing Section
Andrew Evans – Legal Services
Katy Poole – Committee Services

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

8/280224 **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.

9/280224 **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

10/280224 Apologies were submitted on behalf of Councillor Bermingham and Councillor Pritchard was the nominated substitute Member.

LICENSING ACT 2003 – TEMPORARY EVENT NOTICE – YORK ROAD, KINGS HEATH, BIRMINGHAM, B14

On Behalf of the Applicant

Rachel Parkin – Marriage Celebrant

On Behalf of Those Making Representations

Mark Swallow – West Midlands Police (WMP)

* * *

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. David Kennedy Licensing Section, outlined the report.

At this stage the chair asked the applicant to make her representation, Rachel Parkin made the following points: -

- a) That she had applied for the Temporary Event Notice (TEN) as she became aware she needed permission to conduct any kind of activity on the pavement.
- b) The reason for the TEN was due to a client whom wanted to exchange vows on the road, a special place where they got engaged on York Road.
- c) There had been other events on the road such as Pride and Street Fest and the Artisan Market, all of which were held without issues.
- d) She was doing everything to make sure she was going through the right channels.
- e) WMP had had an objection due to the highways permission not being applied for. She had not made that application and was waiting for the outcome.
- f) She hoped that the application would be granted and that WMP would withdraw their objection.

- g) She had canvassed local residents and businesses and they were firmly in favour of the application.

Members asked questions and Rachel Parkin gave the following responses: -

- a) She canvassed all residents and businesses on York Road and Waterloo Road – distributing letters to all residents and emails to all businesses.
- b) The number of guests invited to the wedding at the café would be 80, but she had applied for 499 on York Road as she expected people would be out on York Road on that Saturday evening. Only 80 people would be designated wedding guests.
- c) The event would be outside Fletchers bar on York Road, there is an area of empty land where the advertising boards are situated – it would be on the road there.
- d) The rostrum would be roughly 3x2m and would just be small stage blocks – not a big structure.

The Chair invited the objector to make their presentation, Mark Swallow, on behalf of WMP made the following points: -

- a) The application was made by Rachel Parkin, a wedding celebrant.
- b) The application was for a ceremony of the exchange of vows on York Road.
- c) After WMP received the application they requested further information from the applicant in order to ensure the application promoted the Licensing Objectives in particular the promotion of public safety, they also requested the permission from Highway (which had not been applied for at the time of the objection).
- d) The applicant had made an application to Highways, however that had not been granted as yet and therefore WMP could not approve the application or withdraw their representation.
- e) The event would not be lawful without the Highways permission and therefore WMP could not support the application.

The Chair invited both parties to make a brief closing submission.

Mark Swallow of WMP summarised his points by requesting that the Committee refuse the application due to the relevant permissions and considerations not being in place which could not ensure that the public safety objective would be met.

Rachel Parkin summarised by advising that the relevant permissions had been applied for and she had submitted a risk assessment where full consideration had been given to public safety and she had also been in discussions with Matt

Powell regarding street wardens to ensure crowd safety. She had also considered emergency services having access to the road.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and the short decision was announced at the meeting. A full written decision of the Sub-Committee was sent to all parties as follows;

11/280224 **RESOLVED:-**

That, having considered the objection notice from West Midlands Police in respect of the temporary event notice (“TEN”), as submitted by Rachel Parkin, the premises user, for an event to be held between 7pm and 8pm on 15th June 2024 at York Road, Kings Heath, Birmingham, B14 this Sub-Committee determines that a Counter Notice be issued under Section 105 of the Licensing Act 2003, and the application for a TEN thereby refused.

The reasons for the determination are as follows:

The Sub-Committee has had regard to the evidence, argument and submissions placed before it, in addition to the report, the Section 182 – Home Office Guidance and its own licensing policy

The TEN applied for seeks to licence part of York Road in Kings Heath for the provision of regulated entertainment for the purposes of a civil celebration between the hours of 7pm and 8pm on Saturday 15th June 2024. The Sub-Committee notes at the outset, and was pleased to see that this application was made in good time before the intended event and sought to ensure that appropriate licensing permission was in place for regulated entertainment. The premises, to the extent it is defined in the application, is a place comprised of the pedestrianised section of York Road at the crossroads of Kings Heath High Street along from the Hare and Hounds public house. As the result of a Traffic Restriction Order this place is part of a Low Traffic Neighbourhood. Vehicles are prevented from entering York Road from the High Street, but vehicles can enter through partial obstructions from the other end of York Road. This place is a section of public highway (pavement and carriageway) open to the public, along which there are a number of shops and licensed premises including the Kitchen Garden Café, where an earlier part of the celebration will take place, the aforementioned Hare and Hounds, Fletchers, Schooners and the Juke. Pedestrians and cyclists may travel freely along this section of the highway and vehicles are restricted by signage on an “access only” basis. The application identifies that there is an intention to establish the provision of regulated entertainment outdoors, outside of Fletchers Bar/Kitchen Garden Cafe for the purpose of the celebration with a rostrum. Numbers of attendees are expected to be around 80 for the official celebration party. It is anticipated in the application that members of the public will join the official celebration party from other licensed premises in the locality of York Road. There is a stated expectation that numbers will not exceed 499 persons. West-Midlands Police served an objection notice to the application primarily on the grounds of public safety because they were concerned about the use of the public highway at this place for any licensable activities absent permissions from

the Council to use the public highway. In the hearing today the Police also identified that holding an event on the public highway absent permission from the Council's Highways Authority may amount to obstruction of the highway which is a criminal offence.

Ms Parkin, the Applicant, informed the Sub-Committee that she had, in light of the Police's concerns, recently submitted applications to close the public highway at the relevant time, and for permission for a street party, to the relevant sections of the Council. She also stated that an initial risk assessment had been completed in support of those applications, that safety wardens would be on duty to assist in the management of the event, and that the application enjoyed the support of local businesses and their representatives.

The Police today maintained their representation against the grant of the TEN so long as the necessary permissions as to closure of the highway and for a street party had not been secured by the Applicant. The Sub-Committee kept in mind that the Police are its main source of advice on crime and disorder issues and balanced this against what Ms Parkin told them in support of the application.

The question for the Sub-Committee today, on the information and representations put before it, is whether granting the TEN at this time would undermine the licensing objectives, in particular the public safety and/or the prevention of crime and disorder licensing objectives. The Sub-Committee considers that both objectives in the Act are engaged by the application and the Police's representation at this time. The Sub-Committee also noted that there is no background premises licence in place so it is not open to it to impose conditions on any grant of this application for a TEN.

The Sub-Committee identified that the use of this place has not yet been sanctioned by the Highways Authority in that there is no agreement in place to close the public highway in question, or for a street party. This raises significant safety concerns because cyclists and vehicles may still lawfully enter the premises in question during the proposed celebration and provision of regulated entertainment. Although the risk of an accident or incident may be low in relative terms the risk of harm is high, and overall the public safety licensing objective would be undermined by granting the application at this time.

There remains obvious potential however for any outstanding safety concerns to be adequately risk assessed, thought through and planned for through the process and finalisation of other permissions that are currently being sought. The Sub-Committee recognised that its existing concerns may come to be adequately addressed at some point in the future.

The Sub-Committee was initially concerned by the potential for numbers to exceed 499 because the premises is open to the public whether passersby or patrons of the nearby licensed premises. The Sub-Committee was encouraged to hear that the intention is to utilise safety wardens but the plans to do so and the detail has yet to be agreed through the risk assessment and with the Police in respect of the outstanding applications to other departments of the Council.

At the present time, in the absence of a road closure and a street party permission, and any clear and finalised plans to prevent people coming into conflict with vehicles or manage the risk of crowds, the Sub-Committee reluctantly concluded that the application ought to be refused on public safety grounds.

The Sub-Committee was also concerned that the proposal for this event as it stands could amount to obstructing the public highway, which is a criminal

offence. On this basis, the prevention of crime and disorder licensing objective is engaged and may also be undermined by the current proposal.

The Sub-Committee determines at this time on the application and representations before it to refuse the application and issue a Counter Notice. The Sub-Committee has reached this conclusion reluctantly given the nature of the proposed event and the efforts Ms Parkin has made to date to ensure regulatory compliance. In her representations Ms Parkin referenced other successful licensed events that have taken place in or around the place in question but the Sub-Committee anticipates that those applications for licensing permissions, whether by TENs or applications for premises licenses proceeded after other necessary permissions had been obtained to permit the lawful use of the public highway and/or for street parties, and with the benefit of clear agreed plans with the Police to promote the licensing objectives including public safety. The application before the Sub-Committee today has not yet reached that state of preparation and preparedness, and has to be refused with the issuing of a Counter Notice. To do is appropriate and proportionate weighing up all relevant considerations.

The Applicant is reminded that this refusal of a TEN is without prejudice to her right to issue a further application after she has obtained any necessary permissions for highway closure and a street party to the relevant departments of the Council, such further application for a TEN to be determined on its merits at that time.

All parties are also reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against this 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. No appeal may be brought later than five working days before the day on which the event period specified in the Temporary Event Notice begins.

The meeting ended at 1225 hours.

CHAIR.....

BIRMINGHAM CITY COUNCIL**PUBLIC REPORT**

Report to:	Licensing Sub Committee C
Report of:	Director of Regulation & Enforcement
Date of Meeting:	Wednesday 17th April 2024
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	Simply Local, 84 New Street, Birmingham, B2 4BA
Ward affected:	Ladywood
Contact Officer:	David Kennedy, Principal Licensing Officer, licensing@birmingham.gov.uk

1. Purpose of report:
To consider an application to review a Premises Licence.

2. Recommendation:
<p>To consider the review application and representation received and to determine this matter, having regard to:</p> <ul style="list-style-type: none"> • The submissions made by all parties • The Statement of Licensing Policy • The Public Sector Equality Duty • The s182 Guidance

3. Brief Summary of Report:
<p>Review application received on 20th February 2024 from Trading Standards in respect Simply Local, 84 New Street, Birmingham, B2 4BA.</p> <p>A representation has been received from West Midlands Police as a responsible authority.</p>

4. Compliance Issues:
4.1 Consistency with relevant Council Policies, Plans or Strategies:
<p>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.</p>

<p>5. Relevant background/chronology of key events:</p> <p>Trading Standards applied on 20th February 2024 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for Simply Local, 84 New Street, Birmingham, B2 4BA.</p> <p>A representation has been received from West Midlands Police as a responsible authority, which is attached at Appendix 1.</p> <p>The Review application is attached at Appendix 2.</p> <p>The Premises Licence is attached at Appendix 3.</p> <p>Site location plans are attached at Appendix 4.</p> <p>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.</p> <p>The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -</p> <ul style="list-style-type: none"> a. The prevention of crime and disorder; b. Public safety; c. The prevention of public nuisance; and d. The protection of children from harm.
<p>6. List of background documents:</p> <p>Copy of the representation from West Midlands Police, Appendix 1</p> <p>Review Application Form, Appendix 2</p> <p>Copy of Premises Licence, Appendix 3</p> <p>Site location plans, Appendix 4</p>
<p>7. Options available</p> <p>Modify the conditions of Licence</p> <p>Exclude a Licensable activity from the scope of the Licence</p> <p>Remove the Designated Premises Supervisor</p> <p>Suspend the Licence for a period not exceeding 3 months</p> <p>Revoke the Licence</p> <p>No Action</p> <p>Where the authority takes a step to modify conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.</p>

From: Christopher Jones
Sent: Wednesday, March 6, 2024 2:20 PM
To: Licensing
Subject: WMP Support to Trading Standards review application Licence Number 5422

Good Afternoon Licensing,

West Midlands Police (WMP) support the review application submitted by Trading Standards for the Simply Local Store, New Street Premises Licence number 5422.

On the 7th November 2023 I was one of the WMP Licensing Officers who attended two premises in the city centre run by the same premises licence holder as we had received reports that the premises were not complying with one of their operating conditions –

- *No ciders or lagers above 5.5% ABV except for premier ciders or lagers, will be sold or offered for sale.*

I went to the other premises while my colleagues visited this store.

I contacted the licensing officers who were at this premises and they confirmed identical finding to what I had found in the premises I was at, alcohol being on sale which did not comply with the premises operating condition and what they believed to be illegal vapes being offered for sale.

I contacted the Trading Standards Team with my concerns regarding the vapes in both shops and they agreed to attend the premises.

I liaised with Trading Standards and attended both premises with them.

I assisted Trading Standards Officers, in both premises, as they seized and removed the illegal vapes from both premises.

There is an obvious public health concern with illegal vapes, as the seller would have no guarantee as to whether the product would be safe for consumption, undermining the public safety licensing objective. The below is taken from Vape Uk website (22.02.23 at 09.10hrs) which details the risk and concerns of illegal vapes.

It isn't just the high nicotine content, or the copyright breaches. The main concern when you use a fake vape is that it hasn't gone through the proper tests for safety. This means that there's no guarantees about what you're inhaling into your lungs.

Lab tests also revealed compounds such as formaldehyde and acetaldehyde (which are also found in cigarette smoke) at ten times the level in legal vapes. Some even had more than cigarettes.

In a recent expose, it showed footage of workers at a counterfeit vape factory in China testing the products using their own mouths! Those devices, were then sealed, packaged and shipped.

Other photos taken from within these same factories showed workers handling mouthpieces without gloves, filthy sinks and toilets, and cigarette ends on surfaces next to the manufacturing line.

As the vapes are illegal, it raises the questions of where, how and from whom these products have been purchased from.

That fact that the vapes are illegal undermines the prevention of crime and disorder licensing objective.

This illegal trade is not a victimless activity – the victims include:

- The public who are purchasing products they believe to be safe and tested to UK regulations and standards.
- The customer who will not know that the product could contain chemicals and ingredients which could harm their health.
- Other retailers who are selling legal products are unlikely to be able to compete on price point with an illegal product, reducing their sales and profit.
- The legitimate vape companies who have their sales and profits reduced.

West Midlands Police are concerned by the fact Trading Standards received intelligence in August 23 that this premises was selling illegal vapes. Also that in January 23 the other premises in the city operated by the same premises licence holder was visited by Trading Standards Officers after they had received intelligence that counterfeit vapes were being sold at the shop.

At the visit in January 2023 the premises were left a detailed information pack about the lawful sale of vapes, including the maximum amount of puffs each vape should contain.

From the information supplied by Trading Standards to the premises in January 2023, the premises licence holder would have known that all the vapes seized in December 2023 were illegal for sale in the UK and therefore questions the management practices of the premises.

West Midlands Police would request the Licensing Subcommittee to consider all options open to them up to and including revocation of the premises licence if they deem this proportionate, as the premises licence holder had previously had an advisory visit by Trading Standards prior to these illegal vapes being seized.

Regards



Chris Jones 55410
Birmingham Licensing Team
West Midlands Police

Working in partnership, making communities safer



**Application for the review of a premises licence or club premises certificate under the
Licensing Act 2003**

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 this 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. You may wish to keep a copy of the completed form for your records.

I Paul Ellson (on behalf of Martin Williams, Chief Inspector of Weights & Measures)

Apply for the review of a premises licence under section 51 of The Licensing Act 2003 for the premises described in part 1 below.

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Simply Local Store 84 New Street Ladywood Birmingham City Centre	
Post town BIRMINGHAM	Post code (if known) B2 4BA

Name of premises licence holder or club holding club premises certificate (if known) EMPIRE(BIRMINGHAM) LIMITED BRIDGE HOUSE 9-13 HOLBROOK LANE COVENTRY CV6 4AD
--

Number of premises licence or club premises certificate (if known) 5422

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

☐

2) a responsible authority (please complete (C) below)

YES

3) a member of the club to which this application relates
(please complete (A) below)

☐

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr ☐

Mrs ☐

Miss ☐

Ms ☐

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

☐

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address; Paul Ellison Birmingham Trading Standards 1-3 Ashted Lock Way Aston Birmingham B7 4AZ Our Ref: 10834366
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

- | | |
|---|---------------------------------|
| | Please tick one or more boxes ✓ |
| 1) the prevention of crime and disorder | Yes |
| 2) public safety | No |
| 3) the prevention of public nuisance | No |
| 4) the protection of children from harm | Yes |

Please state the ground(s) for review (please read guidance note 2)

On 7th November 2023 Birmingham Trading Standards Service received information from West Midlands Police that police officers were in a retail premises in the city centre called Simply Local, 84 New Street, Birmingham, B2 4BA. During the course of their inspection the police officers stated they had found a large number of what they suspected were illegal vaping/e-cigs products for sale and asked for officers from the Trading Standards Service join them at the premises.

Two officers from Trading Standards Service; Enforcement Officer Paul Ellson and Apprentice Enforcement Officer Wahab Mahmood duly attended the premises and met officers from West Midlands Police. Officer Ellson identified himself and his colleague to a man behind the counter; Mr Astar Singh, who said he was the manager of the premises. After explaining the reason for the inspection and issuing the relevant search notices, both officers went behind the counter where police officers had already removed a number of vaping/e-cigs of various brands and flavours from some of the shelves to avoid further sales of the illegal products. They had placed them on to the floor by the counter entrance. There were also number of vaping products left on the shelves behind the till that officers began to exam.

All the vaping products were the larger size, that is bigger than 600 puffs and therefore did not comply with the Tobacco and Related Products Regulations 2016. A total of 148 vapes were placed in evidence bags from the floor area and a further 232 vapes were removed from the shelves by the till, these ranged in size from 3500 puffs 9000 puffs, a total of 380 vapes. Once this seizure had been completed Officer Ellson proceeded to search the remainder of the premises. No other products were found that breached Trading Standards legislation.

During the bagging and searching of the premises the Designated Premises Supervisor Mr Gobind Mahal arrived. The situation was explained to Mr Mahal. Mr Singh signed for the seized goods and the officers left the premises.

PLEASE PROVIDE AS MUCH INFORMATION AS POSSIBLE TO SUPPORT THE APPLICATION

The Premise Licence holder for Simply Local, 84 New Street, Birmingham , B2 4BA is Empire (Birmingham) Ltd, registered office Bridge House, 9-13 Holbrook Lane , Coventry, CV6 4AD . Mr Gobind Mahal is a director of this company which was incorporated on October 25th, 2018. The Licence was granted on October 5th, 2021.

Previous history of this shop.

In August 2023 the Trading Standards Service received an allegation that counterfeit vaping product/e-cigs were being sold from the premises. The allegation came from a legal firm acting on behalf of SKE-Crystal, a manufacturer of disposable vapes. They were advised to send a "cease and desist" letter directly to the retail premises. No other matters have come to the attention of Trading Standards.

However Empire (Birmingham) Ltd, operates another premises in Birmingham city centre; that shop is Simple Local Convenience Store, 51 Stephenson Street , B2 4DH. This premise received a visit from a Trading Standards enforcement officer in January 2023 in relation to an allegation. During the course of that visit an information pack on vaping was given to the manager. Part of that information pack contained this statement.-----

"It is imperative that you check all your stock of any single use / disposable electronic cigarettes (NVPs) and non-disposable electronic cigarettes(NVPs) for any of the following:

1. If you have NVPs which **do not have an address in the UK** for either the importer or manufacturer;
2. If you have NVPs which **state that they contain Nicotine or Nicotine Salt (Nic Salt) liquid which is over 2% (20mg/ml);**
3. If you have disposable NVPs **that contain more than 2ml of liquid it equates to around 600 – 700 puffs. Or specifies that it delivers more than around 700 puffs;**
4. If you have NVPs **that do not have this exact wording "*This product contains nicotine which is a highly addictive substance*"**

IMMEDIATELY REMOVE THEM FROM SALE, RETURN THEM TO YOUR SUPPLIER AND NOTIFY THIS SERVICE OF WHERE THE STOCK WAS PURCHASED FROM.

IT IS YOUR RESPONSIBILITY TO CHECK AND ENSURE ALL YOUR

STOCK COMPLIES FULLY AND THAT YOU ARE ABLE TO PROVIDE PROOF OF PURCHASE WHEN AND IF REQUESTED.

In addition to the above, all e-cigarettes and e-liquids are required to be notified to MHRA before they can be sold. The notification status can be checked through the MHRA website - ECIG Search Page | MHRA again it is your responsibility to check. This letter is for guidance only and is not an authoritative interpretation of the law.

To ensure this advice is being followed we will be conducting follow up inspections, any non-compliant stock found on the premises will be seized and formal action will be taken which could result in court proceedings and huge fines.

Further information and advice is available from,

- 1) info@mhra.gov.uk Advice for retailers of e-cigs.
- 2) www.businesscompanion.info Tobacco and Nicotine inhaling products.
- 3) www.ukvia.co.uk If in doubt, check it out.
- 4) www.acs.org.uk ACS advice-Electronic Cigarettes."

Empire (Birmingham) Ltd should have known that the legislation applied to all of the premises they operated and passed on the information to the managers at each site.

Also on 7 November 2023, (the same date of the seizure at Simply Local 84 New St. Birmingham) , 627 illegal vapes were also seized from this other shop; Simply Local Convenience Store, 51 Stephenson Street B2 4DH.

Recommendations.

An alcohol licence confers on a business a responsibility towards its customers and the community around it. This responsibility should mean that the citizens of Birmingham have confidence in the management of the shop and, especially that they do not trade carelessly or illegally.

There should be obligations to ensure good practice, safety of the public and the greater welfare and protection of the local community. There has been to some extent a breach of two of the four Licensing objectives. The Licence that the Council issues is a privilege not a right. That privilege should ensure that the citizens of Birmingham have confidence in the management of the shop and that they do not engage in illegal activity.

With that privilege there are a series of obligations to ensure good practice, safety of the public and the greater welfare and protection of the local community, none of those obligations are too onerous.

A quantity of illegal vapes were found to be on sale in the premises, even though the operators of the shop had previously received an advisory visit albeit at another of their premises, (situated only a short distance away), about vaping and e-cigs and their legality under UK law. This information had either been ignored or wilfully disregarded. Both actions are not consistent with good practice by a licence holder.

The Committee may decide to either revoke the licence. Suspend it for a limited time or place additional conditions on the licence. Such conditions would be beneficial to the community at large as well as the trader.

Supplementary

Reference has been made in this review to another seizure of 627 illicit vapes taken from the Simple Local Convenience Store, 51 Stephenson Street, B2 4DH on the same day. Whilst this is a separate shop with its own distinct licence and subject to a separate licence review application it is worth noting that both shops have the same premises licence holder; Empire (Birmingham)Ltd and the same DPS; Mr Gobind Mahal.

THE PREVENTION OF CRIME AND DISORDER & THE PROTECTION OF CHILDREN FROM HARM

1. Invoices and receipts must be provided for alcohol/tobacco/electronic cigarettes purchased by the Premises Licence Holder or the Designated Premises Supervisor or any person authorised to purchase alcohol/tobacco products/electronic cigarettes on their behalf for sale at the Premises. All Invoices and receipts of alcohol/tobacco products/electronic cigarettes purchased for sale at the Premises must be retained for a period of at least twelve months from the date of the Invoice or receipt. All invoices and receipts of alcohol/tobacco products/electronic cigarettes purchased for sale at the Premises are to be made available to authorised officers of responsible authorities within 48 hours of such a request.
2. That all goods supplied in particular age restricted products, alcohol, tobacco products , vaping products, e-cigarettes and e-liquids must fully comply with all UK laws.

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day	Month	Year

If you have made representations before relating to the premises, please state what they were and when you made them

N/A

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate **YES**
- I understand that if I do not comply with the above requirements my application will be rejected **YES**

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE

WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant, please state in what capacity.**

Signature

Date

20 / 2 / 24.

Capacity Trading Standards Enforcement Officer

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

LICENSING ACT 2003**PREMISES LICENCE**

Premises Licence Number:

5422 / 1

Part 1 - Premises details:**Postal address of premises, or if none, ordnance survey map reference or description**Simply Local
84 New Street**Post town:**

Birmingham

Post Code:

B2 4BA

Telephone Number:

Not Specified

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

L	Late night refreshment
M2	Sale of alcohol by retail (off the premises)

The times the licence authorises the carrying out of licensable activities

Monday - Sunday	05:00	-	04:00	M2
	23:00	-	04:00	L

The opening hours of the premises

Monday - Sunday	05:00	-	04:00
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Where the licence authorises supplies of alcohol whether these are on and/or off supplies

Off Supplies Only

Part 2

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

Registered number of holder for example company number or charity number (where applicable) 11642770
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Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Mr Gobind Rajan Singh Mahal	
Post town:	Post Code:
Telephone Number: N/A	

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 7723	Issuing Authority BIRMINGHAM CITY COUNCIL

Dated 05/10/2021

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 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.

(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) 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 or another qualified person will train any staff at the premises on the basic laws of selling alcohol and on compliance with the conditions on the premises license with particular focus on the prevention of underage sales of alcohol.

A log of the training will be maintained and the training log can be inspected by any responsible authority upon request.

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

Digital CCTV system will be installed at the premises to the reasonable satisfaction of West Midlands Police.

The CCTV system must be operational at all times when licensable activity is being carried out.

All recordings taken from the CCTV system must be kept for a minimum of 28 days and any footage shall be made available upon request to officers of the responsible authorities under the Data Protection rules.

Staff will be given on-going training including identification of anti-social or unusual behaviour.

No ciders or lagers above 5.5% ABV unless Premier ciders or lagers, will be sold or offered for sale.

No alcohol to be consumed on the premises.

The premises will not offer or supply disposable cups to customers purchasing alcohol.

Where there are any alcohol sales between midnight and 04:00 hours the Premises Licence Holder will ensure that an SIA approved door supervisor is on duty.

The Premises Licence holder will keep and maintain a register of door supervisors in which shall be recorded at the start of each period of duty the date, name, door supervisors SIA registration number, commencement and finishing time of duty. The Premises Licence holder will produce the register and the verification of door supervisor's identities, upon request, at all reasonable times to any Police Officer or to any Authorised Officer.

Door supervisors must wear high visibility jackets whilst attending the door and must wear high visibility arm bands within the premises itself.

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

Management to provide suitable and sufficient written Health & Safety Risk Assessments together with Fire Risk Assessments.

A member of staff will be trained in First Aid. Electric, Gas and relevant equipment are to be checked and maintained in working order and tested annually.

Adequate Lighting will be provided in all public areas and outside Management will ensure that the external areas of the premises are monitored to prevent any anti-social behaviour, public nuisance and ensure litter caused by the premises is kept to a minimum.

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

An incident register will be kept on the premises and made available at all times.

The Designated Premises Supervisor will provide responsible management at all times.

The Premises Licence Holder will ensure that any litter emanating from the premises is properly disposed of

before and after trading each day.

The Premises Licence Holder will display prominent, clear and legible signage inside & outside the premises stating the following:

- a) Requesting patrons to be considerate of local residents when leaving the premises
- b) Advising patrons to refrain from drinking alcohol in public areas. Advising patrons to dispose of any litter in litter bins provided.

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

The premises will adopt the 'challenge 25' or similar policy as proof of age scheme to be in operation during licensed hours.

There will be a provision of sufficient staff to protect children from harm with training on appropriate behaviour.

A refusals register will be maintained at the premises at all times. This register will be made available to any responsible authority on request.

The Premises Licence Holder will be making use of an EPOS till system to record any refusals. This record can be accessed, and be made available for responsible authorities. A notice stating 'No sales of alcohol to persons under 18yrs of age will be displayed at the premises.

Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

N/A

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

N/A

3c) Committee conditions to promote public safety

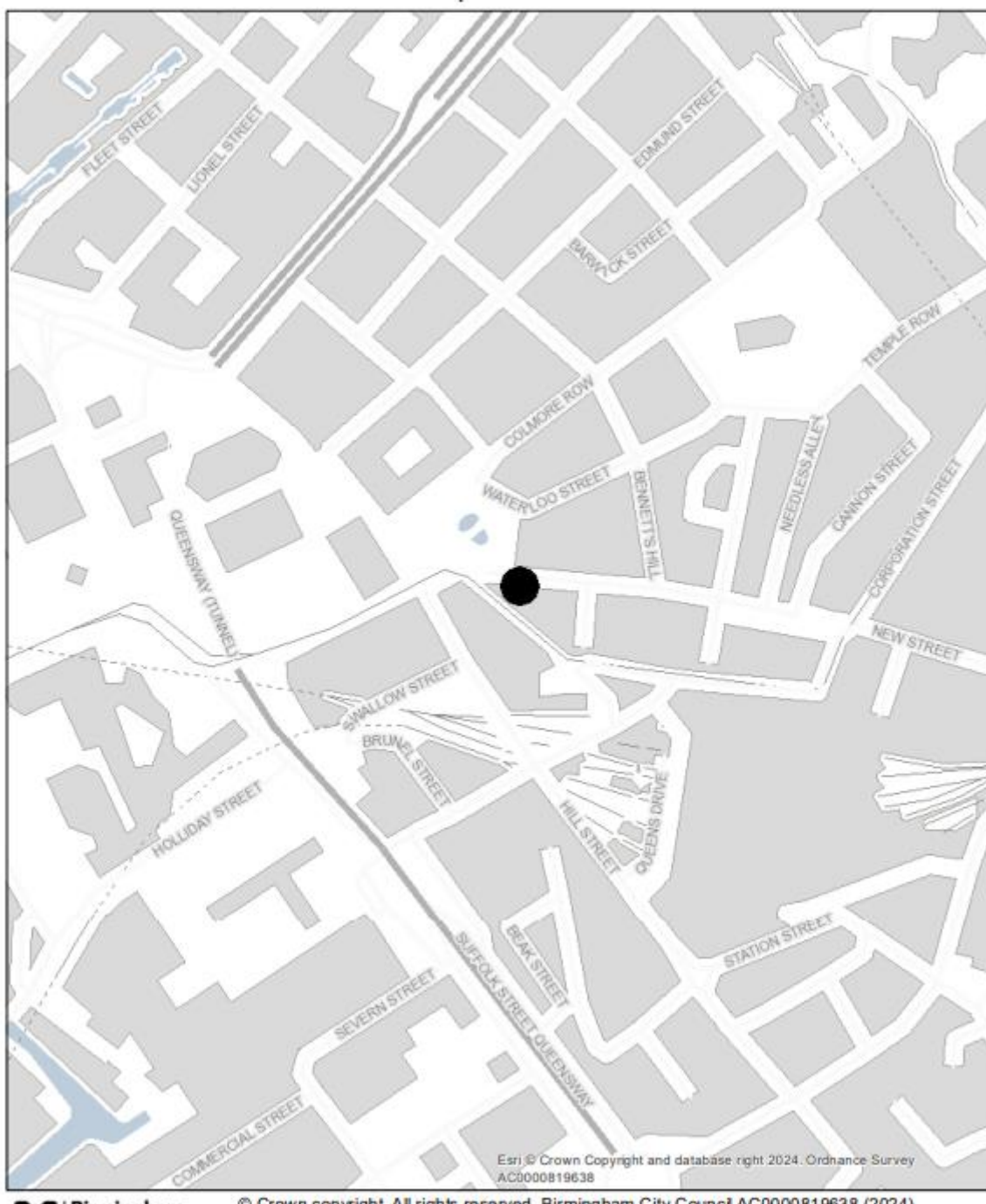
N/A

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

N/A

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

N/A



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