

BIRMINGHAM CITY COUNCIL
LICENSING SUB-COMMITTEE A

Thursday 29 February 2024 at
1100 hours in On-Line Meeting,
Microsoft Teams

A G E N D A

1 NOTICE OF RECORDING/WEBCAST

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite, please click this link, <https://birmingham.public-i.tv/core/portal/home> and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 DECLARATIONS OF INTERESTS

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

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

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

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

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

3 APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

Attached

4 RE: THE CASTLE & FALCON, 402 MOSELEY ROAD, BALSALL HEATH, BIRMINGHAM B12 9AT - LICENSING ACT 2003 AS AMENDED BY THE VIOLENT CRIME REDUCTION ACT 2006 - APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENCE: CONSIDERATION OF INTERIM STEPS

N.B. Application scheduled to be heard at 1100 hours.

Documents submitted:

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

West Midlands Police have applied for an expedited review of the premises licence in respect of **The Castle & Falcon, 402 Moseley Road, Balsall Heath, Birmingham, B12 9AT.**

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

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

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

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

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

5 OTHER URGENT BUSINESS

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

West Midlands Police

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

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

Premises: The Castle and Falcon

Address: Ceol Castle, 402, Moseley Road, Sparkbrook, Birmingham. West Midlands. B12 9AT.

Premise Licence Number: 2050

Premise Licence Holder: Molloy Enterprises Ltd

Designated Premise Supervisor: Mr Dominic Molloy.

I am a Detective 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 24th February 2024, which involved an assault whereby the injured party was rendered unconscious. The actions of members of staff from the premises have contributed to this situation occurring and have led to it worsening, 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 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:



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 - Detective Superintendent 2643 James 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: The Castle and Falcon.

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

**Ceol Castle, 402, Moseley Road.
Sparkbrook,
Post Town: Birmingham**

Post Code (if known): B12 9AT.

2. Premises Licence details:

Name of premise licence holder (if known):

Molloy Enterprises Ltd.

Number of premise licence (if known):

2050.

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)

The Castle and Falcon is a licensed premises situated at Ceol Castle. 402, Moseley Road. Sparkbrook, Birmingham. B12 9AT. The premises license holder is Molloy Enterprises Ltd and designated premises supervisor is Mr Dominic Molloy.

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

At 0355 hours Saturday 24th February 2024 it is believed the premises were open and conducting licensable activity.

At this time a person has been ejected from the premises from the beer garden. On the footpath outside the premises an argument has ensued between the person ejected and friends with staff and door staff from the premises. This has culminated in a disorder taking place where a number of punches have been thrown.

As a result of being punched a person has fallen to the ground unconscious. This person is currently undergoing hospital treatment.

A member of staff from the premises has been charged with unlawful wounding in relation to this incident.

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

West Midlands Police have no confidence in the management of the premises. It is clear that unlawful and excessive force has been used in this instance.

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

Signature of applicant:

Date: 27th February 2024.

Rank/Capacity: Detective Superintendent 2643 James Munro

Contact details for matters concerning this application: BW Licensing

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

Telephone Number(s):

E-mail -

Notes for guidance:

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

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

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

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

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

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

LICENSING ACT 2003**PREMISES LICENCE**

Premises Licence Number:

2050 / 2

Part 1 - Premises details:**Postal address of premises, or if none, ordnance survey map reference or description**

The Castle & Falcon
402 Moseley Road
Balsall Heath

Post town:

Birmingham

Post Code:

B12 9AT

Telephone Number:**Where the licence is time limited the dates**

N/A

Licensable activities authorised by the licence

E	Live music
F	Recorded music
G	Performances of dance
H	Anything of similar description to that falling within (live music), (recorded music) or (performances of dance)
L	Late night refreshment
M3	Sale of alcohol by retail (both on & off the premises)

The times the licence authorises the carrying out of licensable activities

Monday – Sunday	23:00	-	04:00	L
Monday – Saturday	10:00	-	04:00	E,F,G,H,M3
Sunday	12:00	-	04:00	E,F,G,H,M3

New Years Eve – From the commencement of permitted hours to the end of permitted hours on the following day.

The opening hours of the premises

Monday – Saturday	10:00	-	04:30
Sunday	12:00	-	04:30

New Years Eve – 10:00 (12:00 if a Sunday) until 04:30 2nd January

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

On and Off Supplies

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Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Molloy Enterprises Limited 402 Moseley Road Balsall Heath	
Post town: Birmingham	Post Code: B12 9AT
Telephone Number:	
Email N/A	

Registered number of holder for example company number or charity number (where applicable) 5935566

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

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol	
Licence Number 1780	Issuing Authority BIRMINGHAM CITY COUNCIL

Dated 16/07/2007

David Kennedy
Principal Licensing Officer
For Director of Regulation and Enforcement

Annex 1 – Mandatory Conditions

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

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

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

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

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

The responsible person must ensure that— (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures— (i) beer or cider: ½ pint; (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and (iii) still wine in a glass: 125 ml; (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available."

. (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

(2) In this condition:— (a) "permitted price" is the price found by applying the formula $P = D + (D \times V)$, where— (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol; (b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence— (i) the holder of the premises licence, (ii) the designated premises supervisor (if any) in respect of such a licence, or (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence; (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the

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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.

Embedded Restrictions

Where the number of children attending the entertainment exceeds 100 the licensee shall ensure the provisions of Section 12 of The Children and Young Persons Act 1933 are complied with.

This licence is granted subject to compliance with the conditions attached to the Public Entertainment Licence, previously issued in respect of these premises, as detailed in document reference number: PEL4.8 (copies of which are available upon request from the Licensing Section)

Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

The licence holder shall ensure -

All regulated entertainment is permitted is to take place inside the premises only

No adult entertainment or services are permitted on the premises.

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

No enforceable conditions identified from operating schedule.

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

The licence holder shall ensure -

The maximum capacity of persons shall be: Back Room - 110 Front Lounge - 50

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

No enforceable conditions identified from operating schedule.

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

No enforceable conditions identified from operating schedule.

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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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Annex 4 – Plans

The Plan of the premises with reference number **47866-2050/2** which is retained with the public register kept by Birmingham City Council and available free of charge for inspection by appointment only. Please ring the Licensing Section on 0121 303 9896 to book an appointment.



