

# **BIRMINGHAM CITY COUNCIL**

## **LICENSING SUB-COMMITTEE C**

**WEDNESDAY, 06 JANUARY 2021 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 Chairman to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Internet site ([www.civico.net/birmingham](http://www.civico.net/birmingham)) 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 that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

**3     APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

**3 - 34**

**4     MINUTES**

To confirm and sign the Minutes of the meeting held on 23 September 2020.

To confirm and sign the Minutes of the meeting held on 16 October 2020.

To confirm and sign the Minutes of the meeting held on 16 December 2020.

**35 - 72**

**5     LICENSING ACT 2003 PREMISES LICENCE – GRANT PREMISES AT UNIT 2210, ACCESS SELF STORAGE, APPLEBERRY FOODS, 180 SHERLOCK STREET, BIRMINGHAM, B5 7EH**

Report of the Interim Assistant 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 Chairman are matters of urgency.

# BIRMINGHAM CITY COUNCIL

**LICENSING  
SUB-COMMITTEE C  
23 SEPTEMBER 2020**

## **MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 23 SEPTEMBER 2020 AT 1400 HOURS AS AN ON-LINE MEETING.**

**PRESENT:** - Councillor Mike Leddy in the Chair;

Councillors Mary Locke and Martin Straker-Welds.

### **ALSO PRESENT**

Bhapinder Nandhra – Licensing Section  
Joanne Swampillai – Legal Services  
Katy Townshend – Committee Services

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

\*\*\*\*\*

### **NOTICE OF RECORDING/WEBCAST**

- 1/230920 The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site ([www.civico.net/birmingham](http://www.civico.net/birmingham)) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

---

2/230920 **DECLARATION OF INTERESTS**

Members were reminded that they must declare all relevant and pecuniary and non-pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

---

### **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

- 3/230920 Apologies were submitted on behalf of Councillor Neil Eustace and Councillor Mary Locke was the nominated Member.
-

**LICENSING ACT 2003 PREMISES LICENCE – GRANT – EUROPEAN MINI MARKET, 205 HOLYHEAD ROAD, HANDSWORTH, BIRMINGHAM, B21 0AS**

Report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See document No. 1)

**On Behalf of the Applicant**

The applicant did not attend.

**Those Making Representations**

Abdool Rohomon – West Midlands Police (WMP)  
Rakesh Sami – Soho Road Bid

\* \* \*

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

At which stage PC Rohomon alerted the Committee to an email which WMP received from the applicant prior to the hearing. He had not sent the email to licensing and advised that the Committee have sight of it, or he would read it out.

The chairman confirmed that they had not received the email and PC Rohomon could read it out once the Licensing Officer had read the report.

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

PC Rohomon read out the following email set out below: -

“Hi, I am aware that the police service have not supported my license application due to various reasons outlined. There are no such reasons declared in the terms and conditions that may object my application. When the police said that there is a lot of crime in the area and there are too many alcoholics, I believe that there are many other off licenses in the area where customers can buy their alcohol. If this is the case, then you should not point out my application regarding crime and beggars. You should then revoke licenses from every store in Handsworth. Me and my staff have trained for various situations. We have CCTV installed in the shop and outside the store. I have trained my staff to ask under aged customers for their license if they are planning to buy alcohol or cigarettes. If this is the case, I think you should've outlined this when I started my application that you are not taking any more license applications in the area.”

Afterwards, the Chairman invited PC Rohomon to outline the representation on behalf of WMP, PC Rohomon made the following points: -

- a) That the shop was not very wide, and the trading space was around 21 feet.
- b) On the left-hand side of the shop there was a huge beer fridge as well as a shelf for alcohol. The volume for non-alcoholic goods was limited to two aisles. A high proportion was allocated to alcohol. Therefore, it was not just a general grocery shop, but instead an alcohol shop with a bit of groceries.
- c) The applicant should be mindful of the area, look at crime statistics and address the issues within the application. The application was limited and there didn't seem to be anything within it that addressed the problems in the area.
- d) The area was covered by two police units, and both had made representations.
- e) The supporting documentation included statements from officers who dealt with the issues in the area.
- f) The area suffered from high levels of drug dependants and crime such as street robberies, violent crime and public order offences. There were issues with alcohol and drug misuse which meant the local officers were having to deal with those issues daily.
- g) The area was considered a priority by WMP and needed controlling.
- h) The Soho Road BID had made an objection and they were usually promoters of business.
- i) There had been an increase in the use of a drug called Mamba in the area which had a profound impact on people.
- j) There had also been a surge of sex workers in the area.
- k) That granting the licence would have a negative impact on the area, especially for residents and business owners.
- l) The neighbourhood team were struggling to deal with the issues.
- m) The officers were clearly struggling, and it was evident from their statements.
- n) The plan indicated that a good majority of the shop was being allocated to alcohol.
- o) The application should be refused.

In answer to Members questions PC Rohomon made the following points: -

- a) That it was a small shop which was highly saturated with alcohol.

- b) That a shop of that size wouldn't need that much alcohol if it was a general convenience store.
- c) Even with the support of the BID they were struggling with the on-going issues in the area, another alcohol dependent store was only going to add to those issues.
- d) That it wasn't the only premises they had objected to in the area, this was the third or fourth.
- e) He didn't know how many PSPO notices had been issued.
- f) The shop was only small, and the proportion of groceries was much smaller in relation to alcohol.
- g) That most of the shop was taken over by alcohol – it was detailed in the plan and because the applicant hadn't attended that's all they had to go off.
- h) They expected there to be more groceries.
- i) They already had significant problems in the area and another premises would only add to the issues.
- j) They weren't singling out a certain type of alcohol that was the cause of the issues. It was a problem with all alcohol.
- k) The applicant should understand the risks and threats in the area and detail what they would do to reduce those risk in order to reassure the Committee.
- l) The operating schedule was limited.
- m) That there were premises nearby selling alcohol.

The chairman then invited Soho Road BID to make his submissions, at which stage Rakesh Somi made the following points: -

- a) There were 2 or 3 licensed premises which were only 2 or 3 doors away and a few on the same stretch of road.
- b) That the services were at breaking point and another licensed premises would have a negative impact on businesses in the area and residents.
- c) There had been up to 10 people outside his office drinking and causing nuisance.
- d) They completely opposed the licence.

Another representative of Soho Road BID, Bob Baloo, made some additional comments: -

- a) That he was the chairman for the BID.
- b) They were experiencing massive issues.
- c) Licensed premises were selling alcohol which was then being consumed on the streets at all hours, including early morning. This was causing a negative impact on Soho Road.
- d) He had been attacked by street drinkers.
- e) It was a major issue.
- f) That he could not see any positive reason to grant the licence.
- g) That limiting the hours wouldn't help as the premises wouldn't follow it.
- h) They were having issues with the police as they weren't coming out and doing anything. WMP just hadn't got the resources, so everyone was getting 'away with murder' on Soho Road.
- i) That he had emailed Licensing and Trading departments of Birmingham City Council but they weren't doing anything. They took photos daily of the issues and still nothing was being done.
- j) There was no duty of care, the premises in the area were regularly serving to drunks.

In answer to Members questions Rakesh Somi made the following points: -

- a) They were concerned for their staff's safety so were looking at employing security staff.
- b) That they had never seen the area so bad.
- c) They weren't being listened to.
- d) That they had a blanket policy not to support applications in the area.

The chairman invited the representatives of Soho Road BID to make a closing submission, at which stage Rakesh simply stated that the area had worsened in 12 months with a significant increase in anti-social behaviour. The area was suffering from alcohol related issues and this premises would add to it.

Then the Chairman invited WMP to make their closing submission at which stage PC Rohomon made the following points: -

- That there were 6 other licensed premises within Holyhead Road and a further 11 beyond Holyhead Road on Soho Road. All of which were off licences only.

- That the frustrations from the BID were justified, they were getting more and more concerned about the amount of alcoholism in the area and were even considering private security to protect themselves.
- The local police officer did not want this licence granted due to the extent of the problems in the area.
- The premises was small and proposed a high density of alcohol.
- There were no grounds to grant the application.

At this stage the meeting was adjourned in order for the Sub Committee to make a decision and all parties left the Teams meeting. The Members, Committee Lawyer and Committee Manager conducted the deliberations in private and decision of the Sub-Committee was sent out to all parties as follows: -

4/230920

**RESOLVED:-**

That the application by Nawzad Ahmed for a premises licence in respect of European Mini Market, 205 Holyhead Road, Handsworth, Birmingham B21 0AS, **BE REFUSED**. In reaching this decision, the Sub-Committee was mindful of the promotion of the licensing objectives in the Act, particularly the prevention of crime and disorder.

The Sub-Committee's reasons for refusing this application for a premises licence are due to concerns expressed by West Midlands Police and by the management of the Soho Road Business Improvement District, both of whom addressed the Sub-Committee regarding the impact of the proposed operation on the particular locality of the premises, namely an area fraught with social problems and lawlessness.

At the start of the meeting West Midlands Police confirmed that they had received an email from the applicant confirming that he would not be attending the meeting. No such email had been received by the City Council.

The Police referred to the hand-drawn Plan of the premises submitted by the applicant, which was included in the Report. The Plan showed that within the small convenience store, there was only 21ft of trading space. Within the trading space, the majority of the area was taken up by a large beer fridge and further shelving for wines, cigarettes and other alcohol. Only a small area was marked on the Plan as 'groceries'. It was therefore to be assumed that the premises would be dependent on alcohol sales to be viable. The sale of groceries would be ancillary to the sale of alcohol. Unfortunately the applicant had not attended the meeting, and so the Sub-Committee had to take the Plan at face value, without the opportunity to ask questions of the applicant about the detail of his proposals for the sale of alcohol.



The Police had also submitted statements from three Police Sergeants from the neighbourhood policing team, who dealt regularly with the area. These statements gave a detailed account of the disproportionate amount of crime, antisocial behaviour, street drinking, drug use, rough sleeping and aggressive begging (all of which were alcohol related), and also an increase in the presence of sex workers, in and around Soho Road. These problems were persisting despite the imposition of a Public Space Protection Order in 2017. One of the Police Sergeants observed that residents in the vicinity had complained to Police that they were “afraid to go shopping” and that they had “never seen Soho Road so bad”.

The Police considered that the application was of a poor standard and noted that it had failed to address local issues. There was nothing in the application to show that the applicant understood either the area in which he wished to operate, or the impact that a new alcohol-licensed premises would have; nor had the applicant attended the meeting so that the Sub-Committee could ask questions. Three senior Police Officers had confirmed that they were struggling to deal with crime in the area as it was. The applicant’s own Plan showed that the vast majority of the shop floor would be used to display alcohol; from this it was obvious that the business would be dependent on alcohol sales, which would inevitably put the licensing objectives at risk. It was therefore the recommendation of the Police that the application be refused.

Two members of the Soho Road BID management team then addressed the meeting and wholeheartedly supported the Police representations. They stated that the area was “at breaking point” and confirmed that all of the problems outlined by Police were predominantly caused by alcohol. They felt that the area had badly deteriorated in recent times. One of the BID management team, a person whose family had been local residents for sixty years, remarked that he viewed the current situation with crime and antisocial behaviour as “worse than the riots” [the Handsworth Riots of some decades ago]. There had even been talk of engaging private security guards to try to gain some control of the area.

The BID management team was particularly worried about the style of operator, noting that some current operators in and around Soho Road showed a lack of responsibility – for example, the levels of antisocial behaviour rather suggested that some local shops were prepared to sell alcohol to customers who were already drunk. The Sub-Committee agreed that management style was of paramount importance in any ‘difficult’ area; it was therefore very unfortunate that the applicant had not attended the meeting to address the Sub-Committee directly – particularly given that the applicant’s own Plan showed that such a high percentage of shop floor space was to be used for alcohol.

The Sub-Committee carefully considered the operating schedule put forward by the applicant, and the likely impact of the application, but was not confident that either the applicant or the proposed operation of the premises could uphold the licensing objectives in the Soho Road area, for an obvious reason – the applicant had not attended the meeting to address the Sub-Committee. The operating schedule as submitted was not satisfactory for an area with the type of issues seen in and around Soho Road. Increased availability of alcohol in the Soho Road vicinity would inevitably undermine the licensing objectives, unless the licence was carefully conditioned to mitigate the concerns raised by those making representations. However, the Sub-Committee found itself unable to properly assess the additional conditions required without any opportunity to hear from the applicant.

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 contained in the application, the written representations received and the submissions made at the hearing by those making representations.

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 1535.**

# BIRMINGHAM CITY COUNCIL

<b>LICENSING SUB-COMMITTEE C 16 OCTOBER 2020</b>
--

## **MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON FRIDAY 16 OCTOBER 2020 AT 1000 HOURS AS AN ON-LINE MEETING.**

**PRESENT:** - Councillor Mike Leddy in the Chair;

Councillors Mike Sharpe and Bob Beauchamp.

### **ALSO PRESENT**

David Kennedy – Licensing Section  
Joanne Swampillai – Legal Services  
Mr James Rankin, FTB Chambers  
Errol Wilson – Committee Services

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

\*\*\*\*\*

### **NOTICE OF RECORDING/WEBCAST**

- 1/161020 The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site ([www.civico.net/birmingham](http://www.civico.net/birmingham)) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

---

2/161020 **DECLARATION OF INTERESTS**

Members were reminded that they must declare all relevant and pecuniary and non-pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

---

### **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

- 3/161020 Apologies were submitted on behalf of Councillor Martin Straker Welds, with Councillor Mike Sharpe as nominee, and Councillor Neil Eustace with Councillor Bob Beauchamp as Nominee.

**NAKIRA, QUEENSGATE, 121 SUFFOLK STREET, QUEENSWAY,  
BIRMINGHAM, B1 1LX – LICENSING ACT 2003 AS AMENDED BY THE  
VIOLENT CRIME REDUCTION ACT 2006 – CONSIDERATION OF  
REPRESENTATIONS IN RESPECT OF THE INTERIM STEPS IMPOSED ON 1  
OCTOBER 2020**

The following report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See document No. 1)

**On Behalf of the Applicant**

Ms Sarah Clover – Counsel of Kings Chambers representing the Premises  
Licence Holder

Mr Carl Moore – CNA Risk Management

Mr Antonii Mankulu

Mr Dexter Lasswel

**Those Making Representations**

Gary Grant – Counsel of FTB Chambers

Ms Jennifer Downing – West Midlands Police

PC Abdool Rohomon – West Midlands Police

PC Ben Reader – West Midlands Police

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

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

Ms Sarah Clover advised that an email was received in her inbox at 2200 hours on Thursday 15 October 2020 from Mr Grant, Barrister on behalf of the Police apologising that an email from PC Abdool Rohomon to the Licensing Authority had not been included in the Sub-Committee's pack. He attached the email dated 13 October 2020 at 0933 hours and was sent only to the Licensing Authority making a further allegation about an assault at the premises, Nakira on the 24 September 2020.

Ms Clover stated that she did not know the reason PC Rohomon had only sent it to the Licensing Authority on the 13 October 2020, nor who had seen it. It stated at the bottom of the email, supporting document that will be provided prior to the hearing, but nothing had been sent to the representing party in making representation against the interim steps today nor to any of their representatives and that she knew nothing of the allegations. There will be statements and paper work with that allegation that had not been disclosed. Ms Clover requested that Regulation 18 to be invoked and for the Sub-Committee to pay no attention to the email whether or not the Sub-Committee had seen it at this stage. Ms Clover requested an indication as to whether the Sub-Committee had seen the email.

The Members of the Sub-Committee confirmed that they had not had sight of the email.

Mr Grant, Counsel of FTB Chambers made the following statements: -

- That the Police was asked to rely on what they say was essential information that was summarised in an email that PC Rohomon did send to the Licensing Authority on the 13 October 2020.
- When he saw the agenda papers last night, he noticed that it had not been included in the papers.
- On abundance of caution he had forwarded it to all parties as he intended to rely with the Sub-Committee's permission on the information within the email.
- It was served before the hearing at 2200 hours on the 15 October 2020. It was regrettable that the nature of an expedited review process was that things happened at the last minute as we were only given 24 hours' notice of the licence holder's application.
- The Sub-Committee must and would wish to make its decision based on the best available information. The information contained within the email goes to the heart of this interim steps challenge today. It dealt firstly with a serious assault on the 24 September 2020.
- It dealt with the suggestion that on the 26 September 2020 a suggestion made by the licence holder at the first interim steps hearing before the Sub-Committee on the 1<sup>st</sup> October 2020 that people somehow invaded the venue. It showed that to be untrue as CCTV was seen and it also showed what was going on.

At this juncture the Chair interjected and advised Mr Grant that the Sub-Committee did not had sight of the email and because of that he did not saw the relevance to go into the content of the email. The Chair added that what Ms Clover was asking was whether it should be presented for this hearing or not and the Sub-Committee did not want it to *colour our judgement in any shape manner or form*.

Mr Grant commented that if Ms Clover needed time to go through its contents, the Sub-Committee could cure any potential prejudice by giving her some time. But to not permit the Police to use what was essential information for the Sub-Committee's decision today, would greatly prejudice the West Midlands Police (WMP) case and the public interest. It was an email that spans one page and would not take Ms Clover long to take instructions if she has not already done so from her client. The Sub-Committee would wish to make its decision on the accurate position and the best available information. This was the reason it was stated that it ought to be admitted as it was served before the hearing and not at the hearing. It was a matter of the Sub-Committee whether they wish to hear the most relevant information today.

The Chair advised that he asked Mr James Rankin, Counsel FTB Chambers to join the Sub-Committee in a private meeting where the Sub-committee would discuss whether to accept the email that was presented to the parties.

Ms Clover indicated that she had further submissions.

Ms Clover then made the following statements:

- ❖ That it was important to respond to what Mr Grant had stated. Firstly, Mr Grant stated that the email was served before the hearing, but he sent the email at 2200 hours last night.
- ❖ That she did not see the email at 2200 hours last night as those were not working hours and she would not be expected to see it nor did she saw it before the commencement of working hours this morning , nor would she be expected to.
- ❖ The hearing began at 0930 hours working hours realistically began at 0900 hours and she requested that the Sub-Committee take this into account when deciding whether that was before the hearing for Regulation 18 purposes.
- ❖ Mr Grant stated that it contained everything the Sub-Committee needed to know, but it did not as it was an email from PC Rohomon.
- ❖ That the Sub-Committee might wish to consider why PC Rohomon considered at such a late stage to circulate an important email only to the Licensing Authority and not to copy her, or Mr Moore or any of the parties at the premises to make sure they had that information at the earliest possible opportunity.
- ❖ The nature of the content of the email will be based upon statements and supporting documentation and in fact PC Rohomon referred to the supporting documentation at the end of that email – it would be vital if we were going to look into this alleged incident.
- ❖ Mr Grant stated that it was important for the Sub-Committee to have accurate information before making its decision to see the basis for this email and what the email was based on.
- ❖ PC Rohomon' s email was not evidence in and of itself. It was based on something that at the moment remained undisclosed.
- ❖ Mr Grant stated that it was in the nature of the expedited and summary reviews that things happened at the last minute. No, its not and did not had to be.
- ❖ The incident allegedly took place on the 24 September 2020 and so the material about it had been available since then and was available before the first summary review hearing but as not disclosed.
- ❖ There was no excuse for serving it at 2200 hours the night before an appeal against an interim steps that the Sub-Committee had already had enough information about this case to be able to make a decision on.
- ❖ Ms Clover invited the Sub-Committee not to accept this late submission. She added that she would not be in a position to take instructions about it as she had this hearing and another hearing with a client at 1130 hours this morning.

At 1008 hours the meeting was adjourned for the Sub-Committee to discuss in private whether to accept the late paper.

At 1017 hours the meeting was reconvened.

The Chairman advised that the Sub-Committee had deliberated on whether the Sub-Committee should see sight of the email that was sent out last evening and

whether or not it was relevant to this hearing. The Chairman advised that the Sub-Committee felt that the email was relevant, but the Sub-Committee would not take it into consideration for this hearing. The Sub-Committee would take everything else that was presented in the pack that was sent to the Sub-Committee for deliberation. The Chairman asked Mr Grant not to refer to the email in presenting his evidence.

Mr Grant requested confirmation that on that basis that Ms Clover too would be restricted to the information contained in the written representations of the 14 October 2020, mainly the generic information.

The Chairman stated that that information was already in the pack that was distributed. He added that what was distributed to the Sub-Committee, will be taken account of excluding the email that was not in the pack itself. Mr Grant enquired whether any new information from the licence holder that had not been stated in the email that sets out the reason for challenge would be entertained by the Sub-Committee.

The Chairman advised that the only evidence that he had seen was an email from Mr Carl Moore dated the 14 October 2020 that was sent at 2328 hours that was sent to Mr David Kennedy. The Chairman added that this was the only documentation that the Sub-Committee had from the premises licence holder. The rest of the paperwork was from WMP and the licence documents.

Ms Clover made the following points on behalf of the applicant:-

- a) There was no evidential challenge at this stage. This was a legal point tightly drawn in relation to the public nuisance point. This she thought was the first time this would have been subjected to a direct legal challenge and it was anticipated that it would need to be looked at by the courts in due course.
- b) That she regarded this as a first stage. That this was the point as the Sub-Committee may well have anticipated that both counsels had fully anticipated that a summary review was not well founded upon the crime of public nuisance. That this was the reason Mr Grant had submitted (again late) a suite of authorities – ***Remington v Goldstein***, the case of ***Harvey*** in order to support the case that he anticipated.
- c) That this was Mr Grant's idea in relation to the argument about public nuisance. It was innovative and she thought that Birmingham maybe the first or second authority to have picked upon this. That Manchester had a go as well and the thesis goes the offence of public nuisance was a crime.
- d) That the definition being used was taken from ***Remington v Goldstein*** and the crime was said to be serious as it carries potentially life imprisonment. That the nature of the crime was to do something the effect of which would be to endanger lives and health.
- e) That there was a subsidiary point on that, but her main point relates to the requirement for the Section 53A Summary Review Certificate referred to serious crime or serious disorder. That serious crime for the purpose of

summary review had a definition of its own and it comes under Section 81 of the Regulation of Investigative Powers Act 2000 as set out in the agenda pack as set out in the Chief Officer's Certificate.

- f) That the definition of serious crime for the purposes of summary review was that a first time offender over the age of 21 could reasonably be expected to be sentenced to 3 years. That her simple point was there was no way on this planet that anybody would be getting 3 years for a first offence of the nature of the allegations set out anywhere in the Police evidence.
- g) That her subsidiary point lies into that because the police case was predicated upon the idea that the activities at Nakira on any of the occasions alleged, in fact, had the effect of endangering health and lives. That this was not so and at best one could say the activities at Nakira one could take their pick and for her part it would not be necessary to go through any of the Police statements or any CCTV.
- h) That she knew that the Police would be excited about gaps in CCTV and what it may or may not show. That her case at this point without prejudice to any further case she may bring in the future around fact and evidence, her case today was legally based was that at its height any of that evidence from any source could only demonstrate a potential for a risk.
- i) That it did not go further as the Police representation asserts and demonstrates an actual effect of endangering health or life. That you could not go that far as it could not be known whether anybody on the premises had the virus, was capable of transmitting the virus, actually went on into an environment where they could transmit the virus. That this was entirely hypothetical and speculative.
- j) That there was that distinction between the offence in **Remington** and anything that could have been perceived in the premises in question. That at its height and at its worse the penalty for any of the matters disclosed in the Police evidence was built into the Coronavirus Regulations (take your pick as to which regulations they were talking about).
- k) That the regulation they had yesterday might not be the same regulations they had today nor the same one they had tomorrow as they were moving that fast. That it did not matter as the regulations made provisions for an offence or offences disregarding the governments fixtures on social distancing and other protective measures, closing premises and so forth.
- l) That the offences were built into the regulations and the penalties were built into the regulations. That the circumstances in which those penalties could be meted out was built into the regulations and that was where Parliament had decreed the level of penalty for offences of this nature.
- m) That this was the benchmark and was of a financial nature and that she would not go into the imprisonment territory. That it was wrong to disregard that matric for penalising the types of activities that anybody at Nakira had



engaged in and putting them into an entirely different context by saying that was not how we would penalise that actions.

- n) That nobody would be using the regulations, they would take it to court prosecute under the common law offence of public nuisance and fully anticipate that for exactly the same thing somebody might get 3 years.
- o) That it was not a tenable argument and was not even beginning to be viable. That the Police had not identified who it was amongst any of the people implicated that they would expect to get 3 years.
- p) That that was a starting point as to who they were pointing the finger at and why specifically there was a generic allegation against premises so the person who might be susceptible to the 3 year penalty had not been pinpointed and the justification for 3 years had by no means being pinpointed.
- q) That Mr Grant referred to the case of **Harvey** and that in her submission simply demonstrate the desperate nature of the Police argument. That **Harvey** was a completely different case as it pertained to a dangerous child sex predator with serious form and mental illness whose offences were so serious and of such concern that the trial judge gave him life imprisonment.
- r) That the Court of Appeal's reaction to that was that it did not justify life, but for a man who was dangerous and trying to lure little girls into his car again did not think 3 years was justified.
- s) That 3 years was what the Court of Appeal deemed to be justified for offences of that gravity that gives an excellent benchmark as to the likelihood of 3 years being meted out for any of the allegations that had appeared in any of the Police material put before the Sub-Committee for a summary review.
- t) That if it would not be likely to achieve a sentence of 3 years and that was the conclusion that the Sub-Committee reached, they were not in summary review territory and that we should not be here and that this was the correct analysis.
- u) That this was a standard review and that if you look at the paperwork there was no urgency and the Crime Reduction Act was about urgent situations, the urgent need to lockdown premises for violent and serious crimes under the Crime Reduction Act if you look at the guidance etc. was focussing on knives. That the benchmark as to the purpose of introducing that summary review provision.
- v) That the Police was running a clever legal argument courtesy of Mr Grant to bring these entirely novel Covid situations into a summary review scenario. That it was not necessary and was not required and there were powers enough to close premises for Covid purposes under the correct regime either using the Coronavirus Regulations using fixed penalties, fines, using health and safety at work and other measures as they were all there.

- w) That this was a novel argument being run on an academic basis which was not appropriate and that this will need to be looked at in due course by the courts.
- x) That the Public Sector Equality Duty (PSED) – as it happened the three clubs that the Police chose to bring to summary review for their operation – they went out on a Covid operation to see who were and were not complying more than once and the only premises that had been brought to summary review were ethnic minority premises.
- y) That these were Afro/Caribbean premises all three of them and that the Sub-Committee might wish to look at that with some care as that triggered our PSED. That the Sub-Committee would want to know how many premises the Police investigated and what happened to the others.
- z) That some of the evidence from the Police was that they had used the four E's approach – educate encourage and so on. That three premises only had come up for summary review and they were all black owned premises.
- aa) That the Police will want to explain to the Sub-Committee whether this was because of enhanced risk of transmission or for some other reason and what happened to other premises that were not of the same ethnic orientation and were not of the same demographics.
- bb) That if the Sub-Committee had any concerns whatsoever under its PSED for the way in which this case had been brought that was something the Sub-Committee needed to reflect in its reasons.

There were no questions to Ms Clover from Councillors Sharpe and Beauchamp.

In answer to the Chairman's questions Ms Clover made the following points: -

- i. That she did not know the difference the DPS had made between the first visit by the Police to the premises on the 22 August and the second visit in September.
- ii. That the two points that arose out of this were that it further demonstrated that because there had been a build up to the summary review proceedings one visit and then another visit etc. essentially the Police had lost patience rightly or wrongly and that might depend upon the answer to the question which she did not know the answer to.
- iii. That it may be that someone from the premises could answer that question. That there was nothing urgent about that as far as the Police were concerned. If they had detected that there was non-compliance with the Covid regulations they had ample opportunity themselves or by engaging other officers to intervene and dealt with that under the appropriate powers.
- iv. Summary reviews was about an urgent lockdown situation for premises that were causing immediate danger to the public in the way that we would

usually understand that there was an immediate problem and the public needed to be protected.

- v. That the Sub-Committee may or may not regard Covid breaches as such a risk, that was a matter for the Sub-Committee. But put it in the context of the Police going there in August and finding there was a problem, if there was one and going back there again in August there was still a problem and going back there in September and there was still a problem and at that point bringing a summary review was her first point.
- vi. That her second point was to make a distinction between breaches of regulation which was against the law, breaches of guidance which was not against the law and would not be getting a criminal penalty of any sort for that let alone 3 years and breaches of condition which was three completely separate things.
- vii. That the police were not forensic enough in differentiating between those three in bringing the summary review.

The Chairman commented that in the certificate issued by the Superintendent it was noted that a request for CCTV dating back to the 22 August 2020 was requested. The Chairman enquired whether that request had been adhered to.

Ms Clover gave the following response: -

- a. That she believed it had now, but that she did not know if it had been done at the time it was requested.
- b. That Mr Moore could assist at this stage if the Chairman could be so kind as to what CCTV had been disclosed as he had gone through the CCTV. That she was aware that CCTV had been provided to the Police and that there were things on the CCTV that the Police took issue with and that was fine as far as she was concern.
- c. That she was not challenging that today and without prejudice against anything that would be said in the future proceedings whether the full review or whether at the Magistrate's Court.
- d. That she was not taking issue with that today which no doubt meant that the Sub-Committee would need to take its position on it at its highest, at its worst as she understood that it was the likelihood today.
- e. That to a certain extent it might not be necessary to trawl through this to see who did this who did that as the Sub-Committee could pretty much take it at its highest for today's purposes.
- f. That she did not know whether Mr Moore wanted to give the Sub-Committee a little bit more specifics on when the CCTV was handed over to whom and when.

Mr Moore stated that from what he understands the Police wanted two sets of CCTV – one of an incident the Criminal Investigation Department was dealing with and other footage from the night they visited in September. That he understood that the footage from the night the officers turned up in September that had been served on the Police. That he understood that the CCTV from the Criminal Investigation Department was also issued, however, it was all on the

same memory stick. That PC Rohomon wanted it separated and that he believed that this was available today.

The Chair addressed Miss Clover and stated that if they went back to the 26<sup>th</sup> September 2020 when the Police attended the premises at 0040 hours when everyone should have been out of the premises apart from the staff at 2200 hours on the 25<sup>th</sup> September 2020, what was the reason for the premises remaining open until 0040 hours.

Miss Clover stated that she was not dealing with evidential matters today and that she understood that it would likely mean that the Sub-Committee will take evidential matters at their highest against the premises. That there was no point for her to be descending into a point by point debate on the evidence as she understood where this would lead her and that no doubt the Sub-Committee's legal advisor as well. That she did not wish to take time on that as her case was worst case scenario whatever the Sub-Committee make of the evidence her legal point holds good.

There were no further questions from the Sub-Committee.

Mr Rankin counsel for the Sub-Committee addressed Miss Clover and stated that so that he could understand her case questioned whether Miss Clover was stating that because nobody could reasonably be expected to receive 3 years as a sentence of imprisonment for this sort of activity that therefore invalidate the certificate issued by the Superintendent.

Miss Clover responded, yes.

Mr Rankin questioned whether Miss Clover was challenging the issue of the certificate itself.

Miss Clover responded that summary review proceedings were inappropriate and should not have been brought. That this was not serious crime by definition.

Mr Rankin questioned Miss Clover how this had married up with ***Lalli v Metropolitan Police Commissioner [2015] EWHC 14 (Admin)*** and Deputy High Court Judge John Howell's judgment where he specifically stated that the place for a challenge to the certificate was not in front of the Licensing Sub-Committee. If you want to quash the certificate then you had to go to through the high Court.

Miss Clover responded that she had to exhaust her available rights to challenge and this Sub-Committee was entitled to decide whether this was a set of proceedings that fell within the remit of summary review at all. That this was a slightly different point to Lalli. That Lalli was about the nature of the quality of the offence. That this was rather different.

Mr Rankin stated that he was not sure that he understands the difference. That the principle as stated was that if Miss Clover wish to challenge the legality of the certificate the place to do so was not in front of the Sub-Committee, but at the High Court.

Miss Clover responded that the Sub-Committee were entitled to decide whether this was a serious crime within their remit or not and that she maintained that they were.

Mr Grant counsel for West Midlands Police made the following statements:-

1. That bearing in mind the submission the Sub-Committee had just heard from the licence holder he would keep his submissions shorter than they otherwise would have been.
2. That the Sub-Committee had read the papers and had seen what the Police had stated was a flagrant and brazen breaches of the Covid related regulations and indeed the obligation on operators to keep their place safe for their customers and staff.
3. That the Sub-Committee had seen the evidence of the 22<sup>nd</sup> August 2020 at 0500 a large gathering was inside the premises. That the Sub-Committee would have seen the warning meetings that were given to the operators – example a meeting of the Police held at Nakira on the 28<sup>th</sup> August 2020.
4. That the Sub-Committee would have seen what happened on the 26<sup>th</sup> September 2020 when the 2200 hours curfew applied when food and drink ought to have been served only to seated customers, yet at 0040 hours there was still a party going on at the premises.
5. That he would leave the facts there on the basis that the licence holder did not challenge them. That it also appeared that there was no direct challenge to whether if you were correctly able to consider this summary review that the Sub-Committee stated they were that the suspension ought to continue.
6. That there was no reason given to the Sub-Committee why the suspension should not continue until the full summary review hearing. That he will say this in relation to the legal challenge that he respectfully endorsed that Mr Rankin's suggestion that if there was a challenge to the legality of the summary review certificate then that lies to the High Court as **Lalli** was clear that it was not for the Sub-Committee to look behind that. That this was emphasised when we look at what was the legal test for the Sub-Committee today.
7. That the legal test for the Sub-Committee today was set out in the Licensing Act Section 53B 8. That for this hearing the authority must:-
  - (a) Consider whether the interim steps were appropriate for the promotion of the licensing objectives and determine whether to withdraw or modify the steps taken.
  - (b) That at this stage of the summary review, the Sub-Committee was entitled to take steps that promote any of the licensing objectives not simply the definition of serious crime, but public nuisance,

public safety, protecting children from harm and indeed general crime and disorder.

8. That this was the only test for the Sub-Committee to consider today. That the test of serious crime could be found in one of several different ways:-
  - i. There was a reasonable expectation that someone may get 3 years or more;
  - ii. Substantial financial gain and it could be safely assumed that this premises were not operating for charitable purposes; and
  - iii. A large number of people in a common pursuit and we have a very large number of people in this venue.
9. That the Superintendent was perfectly entitled in his opinion to certify the serious crime, but this was simply the trigger for the application before the Sub-Committee.
10. That once it had been triggered the Sub-Committee only had to ask itself what it needed to do and what was appropriate to promote the licensing objectives until the full review hearing. T
11. That the evidence showed clearly a brazen, flagrant disregard of people's safety by not complying with the Covid regulations and subsidiary guidance and that therefore suspension was the right course of action until the matter could be considered in full at the full review hearing.

The Chair stated that Miss Clover in her statement mentioned the number of premises that had been visited and where certificates had been issued all being from premises owned or managed by people from African origin and enquired whether Mr Grant wished to comment on that point.

Mr Grant advised that he had asked PC Rohomon to come in on that point.

PC Rohomon stated:-

- ❖ That as the Sub-Committee would be aware the first case was a nightclub in Hockley that took a lot of engagement from the Police.
- ❖ That the two cases that was being heard by the Sub-Committee today were from secondary visits on the 26 October 2020.
- ❖ That these were visits that were being made throughout.
- ❖ That the reason these were with the Sub-Committee today was simply that they had engaged with these premises and had tried to work with these premises that clearly in the eyes of WMP were not listening and were putting the public at danger.
- ❖ That race and anything else were not in WMP consideration as they were looking purely at public safety and what was going on at those licensed premises to bring it to the Sub-Committee's attention.
- ❖ That WMP made no point that these happened to be African/Caribbean premises. That this was just what they had found and when WMP was doing its intervention these premises had not been listening to the Police.

There were no questions from the Sub-Committee.

In summing up, Mr Grant on behalf of WMP stated that he did not have anything further to add.

In summing up, Miss Clover on behalf of the premises licence holder stated that she drew a distinction between the authority of Lalli and the current proceedings and her second point was the PSED duty that the Police through Mr Rohomon or Mr Grant had not answered the points that she had raised which was how many other premises were dealt with and what was the distinction between those other premises and the three that had been brought for summary review. We were given to understand that this was a coincidence, but the Sub-Committee had not been given that information and did not know how many other premises were looked at by WMP and if the Police were understood in these proceedings that all the other premises were compliant and did listen to advice given over the course of months and of the visits these were the only three that did not. Miss Clover stated that she contested that and that the Sub-Committee PSED was engaged

At this stage the meeting was adjourned in order for the Sub Committee to make a decision and all parties left the meeting. The Members, Committee Lawyers and Committee Manager conducted the deliberations in private and the decision of the Sub-Committee was sent out to all parties as follows: -

4/161020

**RESOLVED:-**

That having considered an application made on behalf of the licence holder under Section 53B( 6) of the Licensing Act 2003 to make representations against the interim steps imposed by the Licensing Sub-Committee on 1<sup>st</sup> October 2020 following an expedited summary review brought by West Midlands Police in respect of the premises licence held by RP Restaurant Limited in respect of Nakira, Queensgate, 121 Suffolk Street Queensway, Birmingham B1 1LX, this Sub-Committee determines:

- that it will not lift the interim step of suspension imposed on 1<sup>st</sup> October 2020 and in consequence the licence remains suspended pending the full review hearing on 23<sup>rd</sup> October 2020.

and

- that the interim step of the removal of Anton Gasparov as the Designated Premises Supervisor will also remain in place.

Before the meeting began the Sub-Committee was aware of the amended Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020, the updated version of the Guidance entitled 'Closing Certain Businesses and Venues in England' originally issued by HM Government on 3rd July 2020, and the Guidance entitled 'Keeping Workers and Customers Safe in Covid-19 in Restaurants, Pubs, Bars and Takeaway Services' issued originally by HM Government on 12th May 2020 and updated regularly thereafter.

The Sub-Committee was also aware of the special local lockdown measures (specifically for Birmingham) which had been announced by HM Government on Friday 11th September 2020, then introduced on Tuesday 15th September 2020. These measures were an attempt to control the sharp rise in Covid-19 cases in the city.

Furthermore the Sub-Committee was aware of the further national measures to address rising cases of coronavirus in England as a whole, which were announced by HM Government on 22<sup>nd</sup> September 2020. These national measures had been published on the “gov.uk” website on that date, and detailed the new requirements for all businesses selling food or drink (including cafes, bars, pubs and restaurants), ordering that all such premises must be closed between 22.00 hours and 05.00 hours. Other requirements for such premises included seated table service, wearing of masks, and participation in the NHS Test and Trace programme. These measures were an attempt by HM Government to control the sharp rise in Covid-19 cases nationally.

The pandemic had continued to be the top story in the national news across the Spring, Summer and now into the Autumn of 2020; the Birmingham lockdown, and also the new national measures announced on 22<sup>nd</sup> September, had been very widely publicised and discussed both in news reports and on social media. The Prime Minister, together with HM Government’s Chief Medical Officer and Chief Scientific Officer, had recently resumed the televised ‘Coronavirus Briefing’ broadcasts which had been a feature of the first few months of the pandemic.

The Sub-Committee was also aware that since 1<sup>st</sup> October 2020 further HM Government Guidance and regulations had been introduced on 14<sup>th</sup> October 2020, namely The Health Protection (Local Covid-19 Alert Level) (High)(England) Regulations 2020 No. 1104. Birmingham is now ranked as Tier 2 High. These further measures formed no part of the deliberations. For the purpose of this hearing the Sub-Committee only took into account regulations and guidance that were in force on 1<sup>st</sup> October 2020.

Sarah Clover of counsel appeared for the applicant. Also in attendance was Carl Moore; Dexter Laswell and Antonio Mankulu.

Gary Grant of counsel represented West Midlands Police. Also in attendance was PC Abdool Rohomon; PC Ben Reader and Jennie Downing.

An initial ruling was required on the admissibility under Regulation 18 of The Hearings Regulations of an email from PC Rohomon which had been served on the council on 14<sup>th</sup> October 2020, but which was not included in the agenda papers and had not been served on Ms Clover until yesterday evening. The Sub-Committee determined not to allow it.

Ms Clover then indicated that she would not be challenging any of the evidence and sought instead to make legal submissions. She challenged the legality of the issuing of the Certificate under s.53A of The Licensing Act 2003 and signed by The Chief Superintendent.

In essence, she made three main submissions about the legality of the certificate:



- i) In respect of the definition of ‘serious crime’ under s.81 of The Regulation of Investigatory Powers Act 2000 she maintained that no person if prosecuted for public nuisance (which carries a maximum sentence of life imprisonment) would reasonably expect to receive a sentence of 3 years’ imprisonment in view of the fact that Parliament had built financial penalties only into the Covid-19 Regulations.
- ii) Ms Clover maintained further that the WMP could not show that the activities had in fact had the effect of endangering lives, and that consequently the certificate had been issued unlawfully.
- iii) The review should have been a standard review and not an expedited review.

Whilst these submissions were of academic interest, the Sub-Committee took the view that they had no bearing on its task today. The Sub-Committee was of the view that it was bound by the High Court decision in ***Lalli v Metropolitan Police Commissioner [2015] EWHC 14 (Admin)*** in which Deputy High Court Judge John Howell ruled on three occasions in his judgment (paragraphs 62, 70 and 75) that:

*“the licensing authority is obliged to conduct the summary review even if it considers that the information available to the officer when he gave the certificate did not establish that the premises were associated with serious crime or serious disorder”. (62)*

*“In my judgment Parliament intended that the licensing authority should be entitled to treat an application for a summary review made by the chief officer of police as valid if it is accompanied by a certificate that apparently meets the requirements of section 53A(1) and has not been quashed. It is not obliged to consider whether or not it is liable to be quashed.”(70)*

*“In my judgment, therefore, the licensing authority was not obliged to consider whether or not Superintendent Nash was entitled to give the certificate that he did on the basis of the information then available to him”. (72).*

The Sub-Committee therefore had to accept the certificate on its face and apply its mind to its duty under s. 53B (8) and (9):

(8)At the hearing, the relevant licensing authority must—

*(a)consider whether the interim steps are appropriate for the promotion of the licensing objectives; and*

*(b)determine whether to withdraw or modify the steps taken.*

*(9)In considering those matters the relevant licensing authority must have regard to—*

*(a)the certificate that accompanied the application;*

*(b)any representations made by the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated); and*

*(c)any representations made by the holder of the premises licence.*

Ms Clover made a further submission under the Public Sector Equality Duty created by the Equality Act 2010 and maintained that WMP had targeted three premises for enforcement which were owned or operated by members of the black community. Carl Moore who drafted the application on behalf of the operator gave no notice this point would be taken. WMP and the LSC were taken by surprise. Statute compels the LA to hold a hearing within 48 hours to determine whether interim steps should continue pending review. Today was the last day on which a hearing could take place. In response, PC Rohomon explained that there had been a lot of engagement with these and the other two premises identified (including the case of Petite Afrique which the Sub-Committee was due to hear next). He said that they had tried to engage with them and that race was not in their consideration. They were looking only at public safety. It just happened that these premises were Afro Caribbean operated.

It was the view of the Sub-Committee that its duty under the Public Sector Equality Duty created by the Equality Act 2010 had been discharged, given the time available. The Sub-Committee had regard to the protected categories under The Equality Act 2010; the Sub-Committee was informed of '*The Brown Principles*' and accepted the assurances of the officer. It may be that when this matter comes before the LSC for the full review hearing on 23<sup>rd</sup> October 2020, PC Rohomon will have more information available in respect of other premises that he has visited and their cultural background.

Other than to make her submissions on the legality of the certificate, Ms Clover made no submissions in respect of the lifting of the interim steps.

Members heard the submissions of West Midlands Police, namely that in August 2020, when the new arrangements for reopening were being publicised and the lockdown was being eased for licensed premises such as pubs and bars, the Police had observed a general failure by the Nakira premises to follow the Government Guidance. Upon visiting the premises at around 05.00 hours on 22<sup>nd</sup> August 2020, Police found that loud music was playing at a volume which made conversation difficult, and also observed that there was no social distancing or limitation of numbers of patrons to allow for safe operation as per the Covid-19 requirements. 50 to 60 people were estimated to have been inside, with a further 15 to 20 outside. The Police ascribed these failures to unsatisfactory management by the premises licence holder and the designated premises supervisor.

The explanation given by the premises was that the people in the premises on 22<sup>nd</sup> August had in fact been "staff", who had been "carrying out maintenance work". This explanation was not accepted by the Police Officers who attended at 05.00 hours and witnessed that the large numbers of people at the premises were dressed for a night out, and loud music was playing.

It was also observed by Police that the premises licence holder was even in breach of an existing condition on the licence, namely that any operating beyond 04.00 hours must be notified to Police in advance. The Police were therefore concerned that the premises licence holder was being reckless in its style of operating, and was endangering public health by risking the spread of Covid-19.

A further visit on 26<sup>th</sup> September at 00.40 hours found the premises to be trading, in direct defiance of the order from HM Government that all premises serving food and drink must close by 22.00 hours. Around 20 to 30 people were found inside the premises, and social distancing was not being observed.

The Police explained that the premises' decision to trade in this unsafe manner, which was not compliant with the Government Guidance, was an overt risk to the health of individuals, families and local communities, at a time when the country is experiencing a national emergency. The Covid-19 virus is a pandemic which has required all licensed premises to act responsibly and in accordance with both the law and the Government Guidance when trading, in order to save lives. It was therefore a flagrant risk to public health for any licensed premises to breach the Government Guidance by trading in an unsafe manner.

Attempts by the Police to advise those at the premises had not been successful. Police had requested that the premises supply the Covid-19 risk assessment which is a mandatory requirement under the Government Guidance; this had not been forthcoming. The recommendation of the Police was therefore that the Sub-Committee should suspend the licence pending the review hearing.

All in all, the Sub-Committee considered the licence holder to have failed to take its responsibilities seriously.

The Sub-Committee therefore determined that it was appropriate, given this unchallenged evidence, that the interim step of suspension should remain in place in order to address the immediate problems with the premises, namely the likelihood of further serious crime. It also determined that the interim step of removing the DPS should remain. It was the view of the Sub-Committee that he was unable to run these premises according to law.

The Sub-Committee determined that the removal of the designated premises supervisor was a very important safety feature given that it was this individual who was responsible for the day to day running of the premises, i.e. the decision to defy the Government Guidance in order to trade as usual. Therefore the risks could only be properly addressed first by the suspension of the Licence, and secondly by the removal of the DPS, pending the full Review hearing.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued by the Home Office in relation to expedited and summary licence reviews, the Public Sector Equality Duty created by the Equality Act 2010 and the submissions made by the Police and by those representing the premises licence holder at the hearing.

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

---

The meeting ended at 1100 hours.

CHAIRMAN

# BIRMINGHAM CITY COUNCIL

<b>LICENSING SUB-COMMITTEE C 16 DECEMBER 2020</b>
---

## **MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE C HELD ON WEDNESDAY 16 DECEMBER 2020 AT 1000 HOURS AS AN ON-LINE MEETING.**

**PRESENT:** - Councillor Mike Leddy in the Chair;

Councillors Martin Straker-Welds and Mary Locke.

### **ALSO PRESENT**

Bhapinder Nandhra – Licensing Section  
Joanne Swampillai – Legal Services  
Katy Townshend – Committee Services

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

\*\*\*\*\*

### **NOTICE OF RECORDING/WEBCAST**

- 1/161220 The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site ([www.civico.net/birmingham](http://www.civico.net/birmingham)) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

---

2/161220 **DECLARATION OF INTERESTS**

Members were reminded that they must declare all relevant and pecuniary and non-pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

---

### **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

- 3/161220 Apologies were submitted on behalf of Councillor Neil Eustace and Councillor Mary Locke was the nominated Member.
-

**MINUTES**

4/161220 The Minutes of meeting held on 26<sup>th</sup> August, 9<sup>th</sup> September and 23<sup>rd</sup> September 2020 were circulated, confirmed and signed by the Chairman.

---

**LICENSING ACT 2003 PREMISES LICENCE – VARIATION – SELECT  
XPRESS, 1164-1166 WARWICK ROAD, ACOCKS GREEN, BIRMINGHAM, B27  
6BS**

Report of the Interim Assistant Director of Regulation and Enforcement was submitted:-

(See document No. 1)

**On Behalf of the Applicant**

Naga Rajesh – Agent  
Vanniyasingam Gunaseelam – Applicant

**Those Making Representations**

No one attended.

\* \* \*

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, Bhapinder Nandhra to outline the report.

Afterwards, the Chairman invited the applicant or their representative to outline their application, Naga Rajesh made the following points: -

- a) That his client was an experienced operator and had managed a premises with a 24 hour licence before.
- b) His client also held a personal licence and had an excellent track record.
- c) They had proposed a number of conditions in order to promote the licensing objectives. In addition, they had also agreed conditions with West Midlands Police (WMP).
- d) That the premises was Covid safe and all measures were in place.
- e) All the Covid risk assessments had been done and approved by WMP as part of the application.

- f) The email from the WMP officer indicated that they were happy with the application, and with the agreed conditions the licensing objectives would be met.
- g) No other licensed premises in the area had such stringent conditions.
- h) His client was actively involved with the neighbourhood watch team.
- i) That had taken extended measures in order to promote the licensing objectives.
- j) There was already a premises with a 24 hour licence close by.
- k) That two residents had concerns, however if there were any issues in relation to crime and disorder or anti-social behaviour WMP would have made a representation.
- l) No persons under 18 would be allowed in the premises unless accompanied by an adult.
- m) That the premises wasn't that close to the school and they were already licensed during school times.
- n) They were not breaching any guidance and were Covid safe.
- o) The premises was not trading 24 hours currently.
- p) They had put measures in place to promote the licensing objectives.
- q) It was not a standard convenience store, it was big.

In answer to questions from Members Naga Rajesh, on behalf of the applicant made the following points: -

- a) The conditions from WMP were in addition to the conditions they already had.
- b) The premises was a big convenience store which did get very busy.
- c) There would always be at least one Manager on duty.
- d) The shop sold groceries and other items.
- e) The school was at least a 10-minute walk from the premises.
- f) His client had invested a lot of money into the premises and he needed to extend the hours in order to survive.
- g) His client took over the premises in October.

Members asked further questions which were answered by the applicant, Vanniyasingam Gunaseelan: -

- a) That alcohol sales made up about 30% of the overall sales.
- b) That there had been a few refusals recorded but he couldn't remember the exact number.

In summing up Naga Rajesh, on behalf of the applicant made the following points: -

- That his client had invested a lot of money into the premises and was relying on bigger sales.
- His client desperately needed the licence.
- There was no evidence to suggest that granting the application would undermine the licensing objectives.
- There were no representations from any of the responsible authorities.

At this stage the meeting was adjourned in order for the Sub Committee to make a decision and all parties left the Teams meeting. The Members, Committee Lawyer and Committee Manager conducted the deliberations in private and decision of the Sub-Committee was sent out to all parties as follows: -

5/161220

**RESOLVED:-**

That the application by Vanniyasingam Gunaseelan to vary the premises licence in respect of Select Xpress, 1164 – 1166 Warwick Road, Acocks Green, Birmingham, B27 6BS under section 34 of the Licensing Act 2003 **BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS** which were agreed between the applicant and West Midlands Police in advance of the meeting:

- CCTV that is approved by West Midlands Police and able to capture images particularly outside under conditions of low lighting will be fitted in the premises. Images will be retained for a period of at least 31 days and will be made available to any of the responsible authorities to view or copies produced on request. 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 31 days and made immediately available to any of the responsible authorities on request
- All staff will receive training in the Licensing Act 2003, the licensing objectives, and in relation to CSE and their role in combatting this. No staff will work at the premises until this training has been completed and the required refreshments have been completed. Refresher training should take place



once a year

- All staff Licensing Act 2003, licensing objective and CSE training will be documented and signed by both the trainer and trainee. No staff to work at the premises until this training has been completed. Training records to be made available to any of the responsible authorities on request
- No persons will be allowed into the premises if 18 years old or younger unless they are accompanied by an adult between 2300 and 0500 hours
- A Challenge 25 policy will be operated by the premises with notices informing customers of the policy. The only forms of acceptable identification shall be a photographic driving licence, a valid passport, a recognised form of photographic identification incorporating the PASS logo or a valid military identification. Notices will be displayed in the premises stating this
- An Incident/Refusals Book will be maintained at the premises and made available to any of the appropriate authorities on request
- Single cans or bottles of beers, ciders and alcopops of less than 75ml or plastic cups to accompany purchases of alcohol are not to be sold
- A list of persons that cause issues will be maintained by the premises and the management will not serve alcohol or tobacco products to these individuals at any time. This list can be populated by the management or any other responsible authorities
- The management will take part in local neighbourhood watch or similar schemes

The Sub-Committee's reasons for imposing the agreed conditions were due to the submissions made by the applicant via his agent. It was noted that the applicant had engaged in talks with West Midlands Police prior to the hearing; in light of the proposed measures, no objection had been made by the Police. The applicant was an experienced person with a Personal Licence, who had held 24-hour alcohol licences elsewhere. He understood the local area and had invested in the business, for example by carrying out a complete refurbishment.

The proposed conditions satisfactorily addressed the issues raised by the two persons whose objections were in the Report. These objections had been made regarding the impact of the proposed operation on the local area. Whilst the Sub-Committee noted these objections, there was nothing to suggest that the applicant would not be able to uphold the licensing objectives. Moreover, the Select Xpress premises would not be the only 24-hour licensed premises in the vicinity.

The Sub-Committee carefully considered the operating schedule put forward by the applicant and the likely impact of the application,

but did not accept that there was evidence of a significant risk to the licensing objectives arising from the proposed operation of the premises. The concerns of the two other persons were taken into account by imposing the agreed conditions, which were more than sufficient to allay their apprehensions. The Sub-Committee considered the conditions imposed to be appropriate, reasonable and proportionate to address those concerns.

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 s182 of the Licensing Act 2003 by the Secretary of State, the information in the application, the written representations in the Report, and the written and oral representations made at the hearing by the applicant and his agent.

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 1147.**

# BIRMINGHAM CITY COUNCIL

## PUBLIC REPORT

<b>Report to:</b>	<b>Licensing Sub Committee C</b>
<b>Report of:</b>	<b>Interim Assistant Director of Regulation &amp; Enforcement</b>
<b>Date of Meeting:</b>	<b>Wednesday 6<sup>th</sup> January 2021</b>
<b>Subject:</b>	<b>Licensing Act 2003 Premises Licence – Grant</b>
<b>Premises:</b>	<b>Premises at Unit 2210, Access Self Storage, Appleberry Foods, 180 Sherlock Street, Birmingham, B5 7EH</b>
<b>Ward affected:</b>	<b>Bordesley and Highgate</b>
<b>Contact Officer:</b>	<b>David Kennedy, Principal Licensing Officer, <a href="mailto:licensing@birmingham.gov.uk">licensing@birmingham.gov.uk</a></b>

### 1. Purpose of report:

To consider a representation that has been made in respect of an application for a Premises Licence which seeks to permit the Sale of Alcohol (for consumption off the premises only) to operate from 24hours (Monday to Sunday).

Due to the nature of the application the public will not have access to the premises.

### 2. Recommendation:

To consider the representation that has been made and to determine the application.

### 3. Brief Summary of Report:

An application for a Premises Licence was received on 10<sup>th</sup> November 2020 in respect of the Premises at Unit 2210, Access Self Storage, Appleberry Foods, 180 Sherlock Street, Birmingham, B5 7EH.

A representation has been received from West Midlands Police as a responsible authority.

### 4. Compliance Issues:

#### 4.1 Consistency with relevant Council Policies, Plans or Strategies:

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

## **5. Relevant background/chronology of key events:**

Bhavinkumar Inamdar applied on 10<sup>th</sup> November 2020 for the grant of a Premises Licence for Premises at Unit 2210, Access Self Storage, Appleberry Foods, 180 Sherlock Street, Birmingham, B5 7EH.

A representation has been received from West Midlands Police as a responsible authority. See Appendix 1.

The application is attached at Appendix 2.

Conditions have been agreed with Birmingham City Council Licensing Enforcement and the applicant, which are attached at Appendix 3.

Site Location Plans at Appendix 4.

When carrying out its licensing functions, a licensing authority must have regard to Birmingham City Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under s182 of the Licensing Act 2003. The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are:-

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

## **6. List of background documents:**

Copy of the representation as detailed in Appendix 1

Application Form, Appendix 2

Conditions agreed with Birmingham City Council Licensing Enforcement, Appendix 3

Site Location Plans, Appendix 4

## **7. Options available**

To Grant the licence in accordance with the application.

To Reject the application.

To Grant the licence subject to conditions modified to such an extent as considered appropriate.

Exclude from the licence any of the licensable activities to which the application relates.

Refuse to specify a person in the licence as the premises supervisor.

**From:** Abdool Rohomon  
**Sent:** 03 December 2020 11:52  
**To:** Licensing  
**Subject:** Grant - unit no 2210, Access Self Storage, Appleberry Foods, 180 Sherlock Street, Birmingham

Dear Licensing

With reference to the above application. This application seeks a 24 hour licence for internet, mobile sales from a warehouse, whilst using couriers (both employed and through contractors) to deliver the alcohol.

We have considered this application on the basis of the risk to additional crime and disorder, public safety, nuisance and protection of children, through on line sales, 24 hours a day, and with the added factor of the delivery being made by either employees or third parties.

To do so relies on solid robust policies and procedures to be in place, ones that all staff can be aware of, so that they can followed and responsible authorities can see, to assess that all the risks have been identified.

WMP have been in contact with the applicants agent, via email and the responses have not provided sufficient evidence to address any of the concerns raised.

These concerns equate to the supply of alcohol late at night, through third parties and their control measures to make sure they are sufficient to the requirements of the premise licence holder and also the training which is documented in the application

West Midlands Police therefore object to this application and request a hearing

Kind regards

**Abs Rohomon. BEM**

**PC 4075 Rohomon. BEM**  
**BW Licensing**  
**Police headquarters**  
**Lloyd House**  
**Colmore Circus**  
**Birmingham**  
**B4 6NQ**

### Application for a premises licence to be granted 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 **Bhavinkumar Inamdar**

*(Insert name(s) of applicant)*

**apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003**

#### Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description			
Unit No 2210 - Access Self Storage Appleberry Foods 180 Sherlock Street			
Post town	Birmingham	Postcode	B5 7EH
Telephone number at premises (if any)			
Non-domestic rateable value of premises		£ 0 (None)	

#### Part 2 - Applicant details

Please state whether you are applying for a premises licence as **Please tick as appropriate**

- |    |  |                             |
|----|--|-----------------------------|
| a) | <b>an individual or individuals</b> (✓ Yes)          | please complete section (A) |
| b) | a person other than an individual *                  |                             |
|    | i as a limited company/limited liability partnership | please complete section (B) |
|    | ii as a partnership (other than limited liability)   | please complete section (B) |
|    | iii as an unincorporated association or              | please complete section (B) |
|    | iv other (for example a statutory corporation)       | please complete section (B) |
| c) | a recognised club                                    | please complete section (B) |
| d) | a charity  | please complete section (B) |

- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

\* If you are applying as a person described in (a) or (b) please confirm (by ticking yes to one box below):

**I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities;** (☒ YES) or

I am making the application pursuant to a

statutory function or

a function discharged by virtue of Her Majesty's prerogative

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs	Miss	Ms	Other Title (for example, Rev)	
Surname INAMDAR			First names BHAVINKUMAR		
Date of birth		I am 18 years old or over		Please tick yes <input checked="" type="checkbox"/>	
Nationality					
Current residential address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 15 for information)					

**SECOND INDIVIDUAL APPLICANT (if applicable)**

Mr	Mrs	Miss	Ms	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
<b>Date of birth</b>		I am 18 years old or over		Please tick yes	
<b>Nationality</b>					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service: (please see note 15 for information)					
Current residential address if different from premises address					
Post town				Postcode	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					

**(B) OTHER APPLICANTS**

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc.)



Telephone number (if any)
E-mail address (optional)

### Part 3 Operating Schedule

When do you want the premises licence to start?

DD	MM	YYYY
<input type="text"/>	<input type="text"/>	<input type="text"/>

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD	MM	YYYY
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please give a general description of the premises (please read guidance note 1)

This is an application for a premises licence for a storage unit within a modern purpose-built storage facility. The application is for 24 hours supply of alcohol for off sales via internet and mail order only. The premises is not open to general public and customers do not have access to the premises. All sale of alcohol is by online or mail order only. Every storage room is individually alarmed, only authorised personnel can access by PIN code to the storage areas and secure storage rooms. 24 hr CCTV, smoke and fire detectors, staff on site seven days a week and perimeter fencing add additional layers of security in place. The premises is also part of a national supply chain network.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment (please read guidance note 2)

Please tick all that apply

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

**Provision of late night refreshment** (if ticking yes, fill in box I)

**Supply of alcohol** (if ticking yes, fill in box J) (✓ Yes)

**In all cases complete boxes K, L and M**

A

<b>Plays</b> Standard days and timings (please read guidance note 7)			<b>Will the performance of a play take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	
				Outdoors	
Day	Start	Finish		Both	
Mon			<b>Please give further details here</b> (please read guidance note 4)		
Tue					
Wed			<b>State any seasonal variations for performing plays</b> (please read guidance note 5)		
Thur					
Fri			<b>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		
Sat					
Sun					

**B**

<b>Films</b> Standard days and timings (please read guidance note 7)			<b>Will the exhibition of films take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 4)		
Mon					
Tue			<b>State any seasonal variations for the exhibition of films</b> (please read guidance note 5)		
Wed					
Thur			<b>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		
Fri					
Sat					
Sun					

C

<b>Indoor sporting events</b> Standard days and timings (please read guidance note 7)			<b><u>Please give further details</u></b> (please read guidance note 4)
Day	Start	Finish	
Mon			
Tue			<b><u>State any seasonal variations for indoor sporting events</u></b> (please read guidance note 5)
Wed			
Thur			<b><u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)
Fri			
Sat			
Sun			

**D**

<b>Boxing or wrestling entertainments</b> Standard days and timings (please read guidance note 7)			<b><u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 4)		
Mon					
Tue			<b><u>State any seasonal variations for boxing or wrestling entertainment</u></b> (please read guidance note 5)		
Wed					
Thur			<b><u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)		
Fri					
Sat					
Sun					

**E**

<b>Live music</b> Standard days and timings (please read guidance note 7)			<b>Will the performance of live music take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	
				Outdoors	
Day	Start	Finish		Both	
Mon				<b>Please give further details here</b> (please read guidance note 4)	
Tue					
Wed			<b>State any seasonal variations for the performance of live music</b> (please read guidance note 5)		
Thur					
Fri			<b>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		
Sat					
Sun					

**F**

<b>Recorded music</b> Standard days and timings (please read guidance note 7)			<b>Will the playing of recorded music take place indoors or outdoors or both – please tick</b> (please read guidance note 3)		Indoors	
					Outdoors	
					Both	
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 4)			
Mon						
Tue						
Wed						
Thur			<b>State any seasonal variations for the playing of recorded music</b> (please read guidance note 5)			
Fri						
Sat						
Sun						
			<b>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</b> (please read guidance note 6)			



**G**

<b>Performances of dance</b> Standard days and timings (please read guidance note 7)			<b>Will the performance of dance take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	
				Outdoors	
Day	Start	Finish		Both	
Mon			<b>Please give further details here</b> (please read guidance note 4)		
Tue					
Wed			<b>State any seasonal variations for the performance of dance</b> (please read guidance note 5)		
Thur					
Fri			<b>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		
Sat					
Sun					

## H

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 7)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<b><u>Will this entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	
Mon				Outdoors	
				Both	
Tue			<b><u>Please give further details here</u></b> (please read guidance note 4)		
Wed					
Thur			<b><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u></b> (please read guidance note 5)		
Fri					
Sat			<b><u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)		
Sun					

# I

<b>Late night refreshment</b> Standard days and timings (please read guidance note 7)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 4)		
Mon					
Tue					
Wed					
Thur			<b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 5)		
Fri					
Sat					
Sun					
			<b>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</b> (please read guidance note 6)		

**J**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 7)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 8)	On the premises	
				Off the premises	✓
				Both	
Day	Start	Finish	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 5)		
Mon	00:00	00:00			
Tue	00:00	00:00			
Wed	00:00	00:00			
Thur	00:00	00:00			
Fri	00:00	00:00			
Sat	00:00	00:00			
Sun	00:00	00:00	<b>Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</b> (please read guidance note 6)  No time restriction on supply of alcohol for off sales, alcohol can only be sold online or by mail order. The premises is not open to public.		

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (Please see declaration about the entitlement to work in the checklist at the end of the form):

<b>Name</b> Bhavinkumar Inamdar	
<b>Date of birth</b>	
<b>Address</b>	
<b>Postcode</b>	
<b>Personal licence number (if known)</b>	
<b>Issuing licensing authority (if known)</b>	

# K

**Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children** (please read guidance note 9).

None

# L

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 7)			<b><u>State any seasonal variations</u></b> (please read guidance note 5)  The premises is not open to the public
Day	Start	Finish	<b><u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u></b> (please read guidance note 6)  The premises is not open to the public
Mon			
Tue			
Wed			
Thur			
Fri			
Sat			
Sun			

## M

Describe the steps you intend to take to promote the four licensing objectives:

**a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)**

1. The premises is not open to general public neither has access for customers of the business.
2. All sale of alcohol is by online or mail order delivery only. Every storage room is individually alarmed and can only be accessed by authorised personnel with PIN code to the storage areas and individual storage units.
3. 24 hr CCTV, smoke and fire detectors, staff on site seven days a week and perimeter fencing add additional layers of security in place.
4. Any sale of alcohol as a result of Internet purchase or mail order must be subject to age verification by verifying payment method.
5. Any delivery of alcohol as a result of Internet purchase or mail order must be subject to 'Challenge 21' age verification policy.
6. Any personnel involved in retail deliveries of alcohol are appropriately trained in licensing laws and age verification.

**b) The prevention of crime and disorder**

As Above

**c) Public safety**

As Above

**d) The prevention of public nuisance**

As Above

**e) The protection of children from harm**

As Above

**Checklist:**

**Please tick to indicate agreement**

- I have made or enclosed payment of the fee. ✓
- I have enclosed the plan of the premises. ✓
- I have sent copies of this application and the plan to responsible authorities and others where applicable. ✓
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable. ✓
- I understand that I must now advertise my application. ✓
- I understand that if I do not comply with the above requirements my application will be rejected. ✓
- [Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom or my share code issued by the Home Office online right to work checking service (please read note 15). ✓

**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.**

**IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.**

**Part 4 – Signatures** (please read guidance note 11)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (see guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

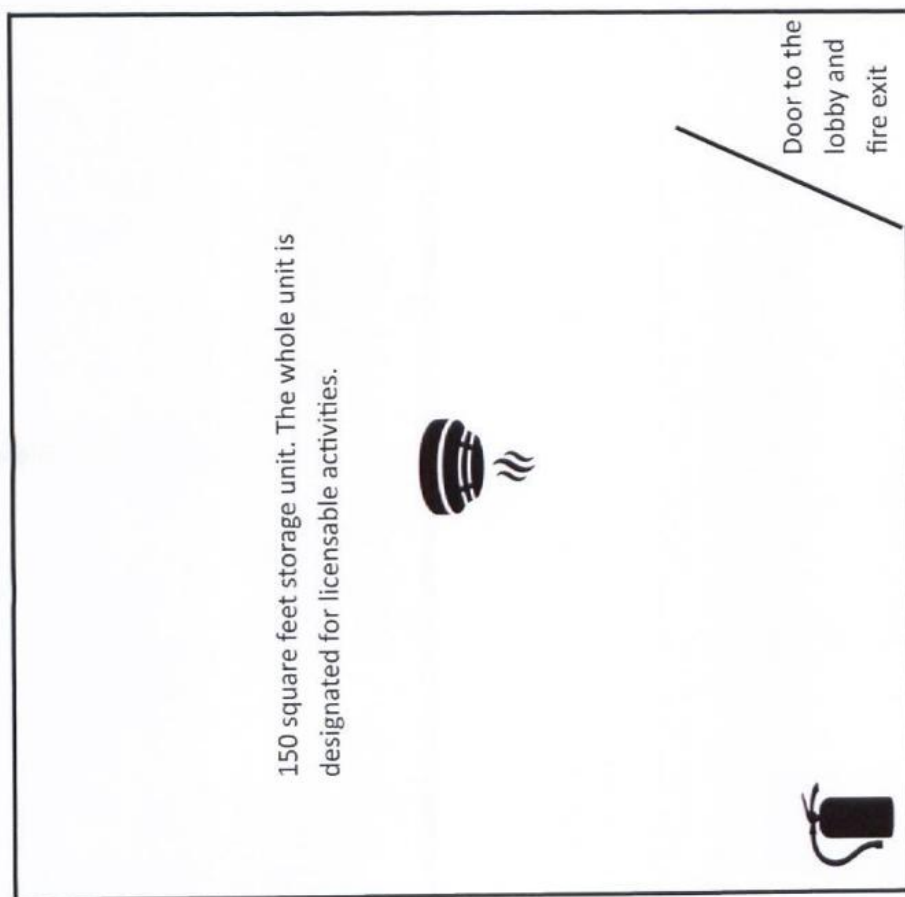
<b>Declaration</b>	<ul style="list-style-type: none"> <li>• [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15).</li> <li>• The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, or have conducted an online right to work check using the Home Office online right to work checking service which confirmed their right to work (please see note 15)</li> </ul>
Signature	
Date	10/11/2020
Capacity	Authorised Agent

**For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant's solicitor or other authorised agent (please read guidance note 13). If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14)			
Bobby Nakum			
Post town		Postcode	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			





Unit No 2210  
 Access Self Storage  
 Appleberry Foods  
 180 Sherlock Street  
 Birmingham  
 B5 7EH  
 Scale 1:100

Lobby and fire exit. Lobby is equipped with fire alarm, CCTV and safety systems.



**From:** Sharon Watts  
**Sent:** 18 November 2020 15:34  
**To:** Licensing  
**Subject:** FW: Grant - Premises Licence, 180 Sherlock Street, Birmingham, B5 7EH

Good afternoon licensing

Please find in attached email conditions and wording which I have agreed with agent.

Kind regards

Sharon Watts  
Licensing Enforcement Officer

Birmingham City Council,  
Licensing Section,  
P.O. Box 17831,  
Birmingham,  
B2 2HJ

[www.birmingham.gov.uk/licensing](http://www.birmingham.gov.uk/licensing)

Twitter: @BCCLicensing

For information on Birmingham Licensed premises including licensed hours, activities and conditions go to  
<http://publicregister.birmingham.gov.uk>

Locally accountable and responsive fair regulation for all - achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors.

**IMPORTANT - Taxi and private hire drivers, please make sure you are wearing a mask when carrying passengers**

**From:** Bobby Nakum  
**Sent:** 12 November 2020 22:07  
**To:** Sharon Watts  
**Subject:** Re: Grant - Premises Licence, 180 Sherlock Street, Birmingham, B5 7EH

Hi Sharon,

We can accept amended condition 5. With regards to condition 6, all training records are kept at the company's head office in London so they cannot keep the training records on site however, they can produce these records anytime. Would you accept the following wordings?

Condition 6. Any personnel involved in retail deliveries of alcohol are appropriately trained in licensing laws and age verification. The training shall be documented, signed by the member of staff and produced to an authorised person upon request.

Kind regards

Bobby Nakum

On Thu, 12 Nov 2020 at 17:06, Sharon Watts wrote:

Good afternoon

I refer to the above application and have now reviewed the proposed conditions, should the application be successful.

I would suggest that 2 of the conditions are amended to read:-

Condition 5. Any delivery of alcohol as a result of internet purchase or mail order must be subject to a Challenge 25 age verification policy.

Condition 6. Any personnel involved in retail deliveries of alcohol are appropriately trained in licensing laws and age verification. The training shall be documented, signed by the member of staff, kept on site and produced to an authorised person upon request.

Please can you confirm by return email that you accept the above.

Kind regards

Sharon Watts

Licensing Enforcement Officer

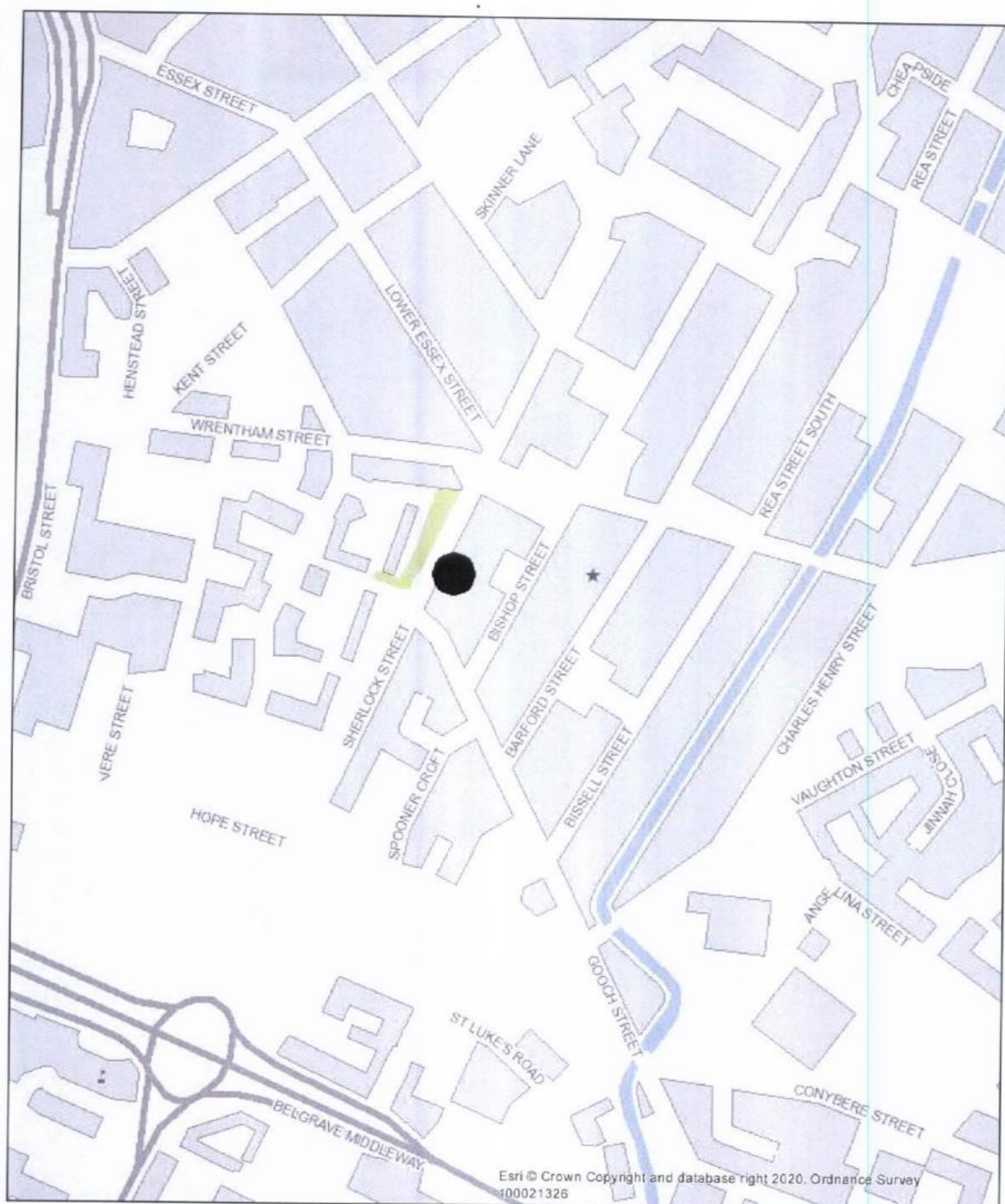
Birmingham City Council,

Licensing Section,

P.O. Box 17831,

Birmingham,

B2 2HJ



**Birmingham**  
City Council

© Crown copyright. All rights reserved. Birmingham City Council 100021326 (2019).

You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.

© GeoPerspectives, supplied by Bluesky International Ltd

Cities Revealed® copyright by The GeoInformation® Group, 2014 and Crown Copyright © All right reserved

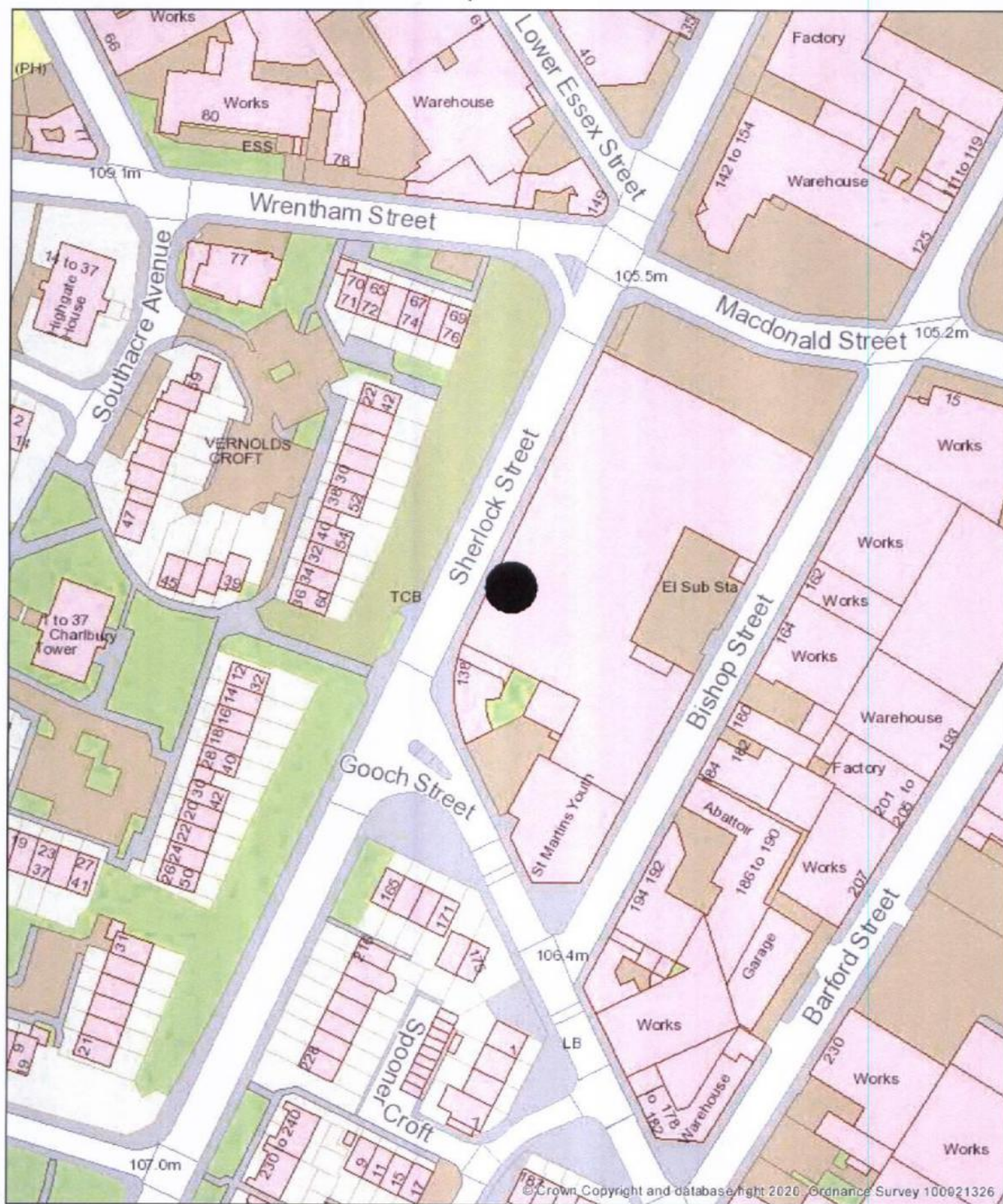
Date of Map Creation: 11/12/2020

Map Created By:

Scale: 1:4,000

N





**Birmingham**  
City Council

© Crown copyright. All rights reserved. Birmingham City Council 100021326 (2019).

You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.

© GeoPerspectives, supplied by Bluesky International Ltd

Cities Revealed® copyright by The GeoInformation® Group, 2014 and Crown Copyright © All right reserved

Date of Map Creation: 11/12/2020

Map Created By:

Scale: 1:1,250





**Appleberry Foods Limited  
Temple Bar  
London  
WC2R 2PH**

## **Our policy on responsible retailing of alcohol**

**Last updated: 01/02/2020**

### **Our approach**

We recognise that some products we sell, such as alcohol, tobacco, energy drinks, knives, and products containing corrosive substances can be harmful if misused or unhealthy if consumed too often. It is an issue our customers care about and we take our responsibility as a retailer of these products seriously.

To support our customers and the communities we serve there are products that are age restricted, which means that customers may be required to verify their age when making a purchase in store or online. Some of these restrictions are required by law, such as alcohol and tobacco, whereas in other areas we have taken a voluntary approach to achieve this aim, for example on energy drinks and painkillers.

We also want to ensure customers are informed about the effects of these products and our approach to tackling potential misuse. We have outlined our approach to the responsible retail of age restricted products below, which is driven through our partnerships with local communities, government, health bodies and the wider industry.

### **Providing information**

We are committed to providing clear information to customers. All our labels on branded alcoholic products have on-pack information that include unit and calorie content, portion guidelines, NHS guidelines, and a warning about drinking when pregnant. We support colleagues and customers through providing information on responsible drinking in-store and online.

We do not position adverts containing alcoholic products in outdoor spaces within 100m of schools. As part of our responsible approach to advertising where appropriate we will include non-alcoholic drinks in visuals as well as alcoholic drinks.

### **Preventing under-age sales**

We clearly communicate to our customers that alcohol is a product for adults. We have strong systems in place to ensure we do not sell to underage customers, including our 'Challenge 25' policy to help staff know when to ask for ID and refuse a sale where appropriate. We also use checkout prompts, including a date of birth, to support our colleagues when checking ID on alcoholic and low alcoholic and alcohol-





free variants of alcoholic brands. Our colleagues are trained to understand their responsibilities and this training is reviewed regularly. We also use mystery shoppers to test whether our cashiers and delivery drivers are correctly challenging customers to prove their age.

## **Partnership**

While we recognise our responsibility as a retailer to encourage responsible drinking, we cannot do this alone and so we engage in several industry-wide initiatives. This includes abiding by the Portman Code, participating in the Campaign for Smarter Drinking, working with our retail and product brand partners.

## **Working with communities**

We understand the need to be responsible retailers in the communities we operate in and play an active role in tackling problem underage drinking in local communities. We work with local authorities and police forces to address issues of alcohol-related anti-social behaviour in and around our stores and facilities.

## **Third party contract monitoring and due diligence**

We work with a number of third parties to source, transport and deliver alcohol. Our policy requirements are embedded in our contracts with the third parties. We have a robust contract monitoring system in place to ensure all our trade partners demonstrate the same level of commitment towards responsible sale or supply of alcohol when their employees are working in our stores or providing transportation and delivery services.



## Abdool Rohomon

---

**From:** Bobby Nakum [REDACTED]  
**Sent:** 06 December 2020 20:06  
**To:** Abdool Rohomon  
**Subject:** Re: [External]: Re: Licence application - Sherlock Street, Birmingham  
**Attachments:** Responsible retailing of alcohol policy.pdf  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Abdool,

Please see the attached policy on responsible retailing of alcohol.

Bobby Nakum  
Mobile: [REDACTED]

On Mon, 30 Nov 2020 at 14:23, Abdool Rohomon <[a.rohomon@west-midlands.pnn.police.uk](mailto:a.rohomon@west-midlands.pnn.police.uk)> wrote:

Bobby,

I am rather amazed that me asking you questions about this application has led to such a stark response from you.

If you are going to make allegations that we are taking a prejudicial stance, maybe you should back this serious claim up with some evidence.

We do trust licenses we have many thousands and having done this for a long time I know what to look for. You are supposed to look at the operation and consider the implications and then propose conditions. This has not been done against the basic questions I have asked, to which you have not provided any answers. Company policies around such things can be disclosed to us, as we see many of them, so I do not accept what you say.

When you provide such information then conditions can be looked at, or we can get the licensing committee to consider it.

**Abs Rohomon. BEM**

**PC 4075 Rohomon. BEM**

**BW Licensing**

**Police headquarters**

**Lloyd House**

**Colmore Circus**

**Birmingham**

**B4 6NQ**

**Internal : 801 1631**

**External : 0121 626 6099**

**Follow us on Twitter - @brumcopslicensing**

**West Midlands Police**

**Tel. 101 Ext 8011627**

**Email: [a.rohomon@west-midlands.pnn.police.uk](mailto:a.rohomon@west-midlands.pnn.police.uk)**

**Website: [www.west-midlands.police.uk](http://www.west-midlands.police.uk)**

**Twitter: [www.twitter.com/brumpolice](https://www.twitter.com/brumpolice)**

**Facebook: [www.facebook.com/westmidlandspolice](https://www.facebook.com/westmidlandspolice)**

**YouTube: [www.youtube.com/westmidlandspolice](https://www.youtube.com/westmidlandspolice)**

**Vision statement - Serving our communities, protecting them from harm**

**From:** Bobby Nakum [mailto:████████████████████]

**Sent:** 30 November 2020 13:55

**To:** Abdool Rohomon


**Subject:** Re: [External]: Re: Licence application - Sherlock Street, Birmingham

Dear Abdool,

Should you wish to put forward conditions on the licence, we will be happy to accept them. We cannot go in to the company's day to day operations and business administration. The authorities need to trust their licensees and allow them to do business in a competitive manner without prejudicing and in the event of non compliance, you have the option to review the premises. Therefore, I am happy to accept conditions you may propose but I feel that the Police is taking prejudicial stand against my client.

Kind regards

Bobby Nakum



On Mon, 30 Nov 2020, 1:45 pm Abdool Rohomon, <[a.rohomon@west-midlands.pnn.police.uk](mailto:a.rohomon@west-midlands.pnn.police.uk)> wrote:

Thank you Bobby,

Your actual application in very light on any such detail, and we need to make sure the conditions are appropriate and promote the objectives especially as the alcohol is out of their control.

I get that the public will not be allowed to the premise, so that does not concern me

You say all deliveries are actively tracked and monitored – what does this mean, by whom, by what means, it needs details, what is the company policy (can we have a copy)

You then say contingency plans for night time, again what are they, what is the company policy.

How are you going to ensure this is the same for third party delivery companies – who will you use, do you have their policies, are you only using ones you have signed contracts with?

What training do the in house staff have, what is it, when is it done, when is it refreshed.

How will you know a refusal to deliver has happened?, where will this be documented?



How will you know and detail the drivers collecting the alcohol, and if this information is needed by a responsible authority how will that be achieved and in what time frame

These need to be considered and then conditions offered to us, so can I ask you do this and come back to me please

Regards

**Abs Rohomon. BEM**

**PC 4075 Rohomon. BEM**

**BW Licensing**

**Police headquarters**

**Lloyd House**

**Colmore Circus**

**Birmingham**

**B4 6NQ**

**Internal : 801 1631**

**External : 0121 626 6099**

**Follow us on Twitter - @brumcopslicensing**

**West Midlands Police**

**Tel. 101 Ext 8011627**

**Email: [a.rohomon@west-midlands.pnn.police.uk](mailto:a.rohomon@west-midlands.pnn.police.uk)**

**Website: [www.west-midlands.police.uk](http://www.west-midlands.police.uk)**

**Twitter: [www.twitter.com/brumpolice](https://www.twitter.com/brumpolice)**

**Facebook:** [www.facebook.com/westmidlandspolice](http://www.facebook.com/westmidlandspolice)  
**YouTube:** [www.youtube.com/westmidlandspolice](http://www.youtube.com/westmidlandspolice)

**Vision statement - Serving our communities, protecting them from harm**

**From:** Bobby Nakum [mailto:████████████████████]  
**Sent:** 29 November 2020 17:30  
**To:** Abdool Rohomon  
**Subject:** Re: [External]: Re: Licence application - Sherlock Street, Birmingham

Dear PC Rohomon,

Immediate deliveries will be done by both in house and third party. I am also the company's consultant for compliance, training, and contract monitoring, I am a legally qualified licensing practitioner and trainer.

All deliveries are actively tracked and monitored. There are contingency procedures for nighttime deliveries. Furthermore, no members of the public will be allowed on the premises. No alcohol will be supplied directly to members of the public at the premises. There will be a clear warning at the point of order that alcohol will only be delivered to someone over the age of 18 and that appropriate identification is requested. Off sales will be handled by a nationally recognised delivery company that employs the 'Challenge 25' age verification policy. All sales of alcohol will be online for mail order delivery only. Storage areas will be individually alarmed and can only be accessed by authorised personnel with PIN code entry. The company has due diligence and contract monitoring in place for third party delivery contracts and regular audits are carried out.

I hope this answers your concerns.

Bobby Nakum

Mobile: ████████████████████

On Thu, 19 Nov 2020 at 10:08, Abdool Rohomon <[a.rohomon@west-midlands.pnn.police.uk](mailto:a.rohomon@west-midlands.pnn.police.uk)> wrote:

Bobby,

Thank you, so in terms of the Immediate deliveries who is doing them? In house or third party?

Who is doing the training for the in house staff, where is this recorded and how often do they do it. What procedures are in place for in house delivery, what do they have to do when the goods are delivered.

What extra control measures are in place for late night delivery as the risk is higher

The application is very light on these details so I would be grateful for more information

Thanks

**Abs Rohomon. BEM**

**PC 4075 Rohomon. BEM**

**BW Licensing**

**Police headquarters**

**Lloyd House**

**Colmore Circus**

**Birmingham**

**B4 6NQ**

**Internal : 801 1631**

**External : 0121 626 6099**

**Follow us on Twitter - @brumcopslicensing**

**West Midlands Police**

**Tel. 101 Ext 8011627**



Email: [a.rohomon@west-midlands.pnn.police.uk](mailto:a.rohomon@west-midlands.pnn.police.uk)

Website: [www.west-midlands.police.uk](http://www.west-midlands.police.uk)

Twitter: [www.twitter.com/brumpolice](https://www.twitter.com/brumpolice)

Facebook: [www.facebook.com/westmidlandspolice](https://www.facebook.com/westmidlandspolice)

YouTube: [www.youtube.com/westmidlandspolice](https://www.youtube.com/westmidlandspolice)

Vision statement - Serving our communities, protecting them from harm

---

**From:** Bobby Nakum [mailto:██████████]  
**Sent:** 16 November 2020 14:22  
**To:** Abdool Rohomon  
**Subject:** [External]: Re: Licence application - Sherlock Street, Birmingham

---

**CAUTION:** This email originated from outside of West Midlands Police. Do not click links or open attachments unless you are sure the content is safe.

---

Dear PC Rohomon,

Delivery will be done by in house staff as well as contracted companies. The company also delivers specialty foods and non alcoholic beverages from other units depending on temperature requirements. Express deliveries will be immediate, other deliveries can have lead time depending on delivery service chosen by the customer. Speciality wines such as Beaujolais Nouveau need to be delivered very fresh as required by EU wine appellation requirements therefore, deliveries on such items will take priority.

Kind regards

Bobby Nakum

Licensing Agent

Mobile: ██████████

On Mon, 16 Nov 2020 at 13:55, Abdool Rohomon <[a.rohomon@west-midlands.pnn.police.uk](mailto:a.rohomon@west-midlands.pnn.police.uk)> wrote:

Dear Mr Inamdar,

I am currently looking through your licence application for the above premises.

Could you clarify for me please who actually does the delivery of the alcohol and is it only alcohol that you sell?

Can the delivery be for immediate dispatch (as in straight away) or is there a delay in the alcohol being dispatched (if so how long)

It would be appreciated if you could answer these for me please so I can fully assess this application

Kind regards

**Abs Rohomon. BEM**

**PC 4075 Rohomon. BEM**

**BW Licensing**

**Police headquarters**

**Lloyd House**

**Colmore Circus**

**Birmingham**

**B4 6NQ**

**Internal : 801 1631**

**External : 0121 626 6099**

**Follow us on Twitter - @brumcopslicensing**

**West Midlands Police**