

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE B

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

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

A G E N D A

1 NOTICE OF RECORDING/WEBCAST

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 DECLARATIONS OF INTERESTS

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

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

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

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

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

3 **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

3 - 22

4 **MINUTES**

To note the public part of the Minutes of the meeting held on 29 August 2023 at 1000 hours and to confirm and sign the Minutes as a whole.

23 - 92

5 **LICENSING ACT 2003 PREMISES LICENCE – VARIATION O BAR, 265 BROAD STREET, LADYWOOD, BIRMINGHAM, B1 2DS**

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

6 **OTHER URGENT BUSINESS**

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

7 **EXCLUSION OF THE PUBLIC**

That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-

Exempt Paragraph 3

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

1 **MINUTES**

To note the private part of the Minutes of the meeting held on 29 August 2023 at 1000 hours and to confirm and sign the Minutes as a whole.

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

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

BIRMINGHAM CITY COUNCIL

**LICENSING
SUB-COMMITTEE
TUESDAY 29 August 2023**

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE
A HELD ON TUESDAY 29 AUGUST 2023 AT 1000 HOURS AS AN
ON-LINE MEETING.**

PRESENT: - Councillor Diane Donaldson in the Chair;

Councillors Sadak Miah and Penny Wagg.

ALSO PRESENT

Bhapindra Nandhra – Licensing Section
Joanne Swampillai – Legal Services
Ed Brown – Committee Services

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

1/290823 **NOTICE OF RECORDING/WEBCAST**

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) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

2/290823 **DECLARATION OF INTERESTS**

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

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

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

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- 3/290823 If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.
Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.
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4/290823 **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

Apologies were submitted on behalf of Councillor Higgs. Councillor Councillor Wagg was the nominated substitute.

5/290823 **MINUTES**

That the public section of the Minutes of the meeting held on 1 August 2023 at 1000 hours were noted and the minutes as a whole were confirmed and the minutes as a whole were confirmed and signed by the Chair.

6/290823 **DIAMOND FOOD AND WINE, 1001-1003 TYBURN ROAD, ERDINGTON, BIRMINGHAM, B24 0TQ**

On Behalf of the Applicant

Paul Ellson – Trading Standards

Those Making Representations

WMP – Mark Swallow
BCC Licensing Enforcement – Christine McCullough
David Tuitt - Agent
Mahir Kilic – Agent
Nuri Bay – PLH and DPS

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

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

The Chair invited the applicant to make their submission and Paul Ellson, on behalf of the applicant, made the following statements:-

- a) He had visited the premises in response to a complaint that the premises was selling illegal tobacco and nitrous oxide. Including to people under 18.
- b) During the visit he had spoken to employees and the Designated Premises Supervisor (DPS), issuing a warning and explaining legislation on the sale

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of tobacco, electronic nicotine devices and nitrous oxide. He had also issued a 'traders notice' explaining that the aforementioned activities were illegal. This notice had been signed by the DPS Mr Bay.

- c) Mr Bay was informed that it was his responsibility to check his stock and ensure that it was compliant with UK law.
- d) There was no refusal register at the site.
- e) Trading Standards received two further complaints about the sale of illicit tobacco, electronic nicotine devices, nitrous oxide and the sale of single cigarettes. A further notice was issued to Mr Bay, with comprehensive advice on how to comply. This notice included an added statement on the sale of alcohol to Under-18s.
- f) A further two complaints were received in December 2022.
- g) On 16 February 2023, the premises was included in an operation to detect and seize non-compliant tobacco products with police dogs. Mr Bay was present during this visit.
- h) Illegal electronic nicotine devices were discovered, nitrous oxide canisters were discovered with a large charger and balloons, an illegal bottle of whisky (with no UK Duty Paid stamp) was discovered and illicit tobacco products were discovered. All illegal items were seized.
- i) A further five complaints were made since the seizure of illegal products, regarding the sale of illegal items and the sale of alcohol to Under-18s.
- j) The Licence for the premises contained basic conditions. The Premises had been given two warnings and time to comply. The premises was seen as a threat to public safety and people under-18.
- k) Mr Bay blamed the previous owner for the non-compliance, however, this appeared to be untrue as there had been more consumer complaints and non-compliance.
- l) A licence relied on responsibility so that people could have confidence in the management of the shop and so that they did not trade irresponsibly or illegally. A licence was a privilege and not a right. Trading illicit tobacco was a serious matter both due to health issues and because duty was not paid.
- m) Mr Elson had attended a seminar on the effects of nitrous oxide during which he learned that its use could have serious health issues.
- n) The casual attitude to flouting the law reflected badly on Mr Bay. The premises had continued to flout the law and as such the withdrawal of the licence was requested.

In answer to a Members' questions Paul Elson gave the following response: -

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Electronic nicotine products were regulated by the Medicines and Healthcare products Regulatory Agency (MHRA). Any device capable of more than 600 'puffs' were technically illegal as they were not notified to the MHRA and contained too much nicotine.

WMP made the following statements:-

- a) A review had been submitted to Trading Standards about a large quantity of illegal tobacco, non-duty-paid whisky and nitrous oxide.
- b) These had been found as part of an operation across the area.
- c) The premises had been visited twice prior to this, on 23 August 2022 and 10 November 2022.
- d) Mr Bay had been left with a traders notice giving advice on how to be compliant.
- e) All of the items seized, other than the whisky, were items previously mentioned by Trading Standards.
- f) There was evidence that Mr Bay had ignored advice and the visits by Trading Standards and was putting profit above the licensing objectives.
- g) Although nitrous oxide was not illegal, it was an offence to supply it if used for psychoactive effects.
- h) The nitrous oxide was hidden and found with balloons (which could be used to inhale the gas), which suggested that the premises had been reckless in its supply.
- i) There was no possibility that the tobacco and electronic nicotine devices could have been obtained legitimately.
- j) The sale of these items was unlikely to be reflected in the business accounts as no duty had been paid on them. This could mean they could be sold at a lower price which could have a detrimental effect on other businesses.
- k) As these items were not obtained legitimately, the premises could not know if they were safe or what health effects they could have, particularly as the ingredients of illicit tobacco were not known.
- l) The World Health Organisation (WHO) claimed that the illicit tobacco market could account for 1 in 10 cigarettes, and that this was an acute problem in Europe and a serious threat to public health.

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- m) Cheaper cigarettes were also undermining government tobacco controls, and creating a loss in tax and customs revenue that was used to prevent international criminal activity.
- n) The PLH had been given advice on how to be legitimate and had not shown that he was prepared to trade legally. Therefore WMP supported Trading Standards in their request for the licence to be revoked.

Christina McCullough, Birmingham City Council Licensing Enforcement, made the following statements:-

- a) She had been given the task of putting up notices in the shop as part of the review. She had attended the premises and spoken to the manager of the premises. He was fully aware of the situation.
- b) On the last day of the representation period, she had gone to see the level of compliance at the premises. She was met by two young assistants and she had asked them for the licensing documents. They called their manager to obtain the documents.
- c) An inspection was done in the presence of the manager.
- d) The licence, issued to Mr Bay, did not have many conditions in its operating schedule. She had gone through the conditions with staff. The only condition that was being met was the 'Challenge 25' signage.
- e) Failures over licensing conditions included:
 - a. The entrance door had no electronic device to monitor entry.
 - b. The entrance door was not closed between midnight and the close of business hours, as required to ensure control over the entry of customers. The door had been wedged open with a metal bar.
 - c. There were no staff training records available on this visit. They had been received since.
 - d. They were unable to access CCTV footage as required by the conditions of the licence. At this time Mr Bay was out of the country.
 - e. Notices were not displayed requesting people to leave the premises quietly.
 - f. Parts 1 and 2 of the licence were not displayed correctly.
- f) It would be expected that the premises should be on top of compliance at the end of the review period. This was not the case. This showed contempt for the licence.

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- g) As previously mentioned, a licence was a privilege and if conditions were not complied with it could have major consequences. No steps had been taken to ensure compliance.
- h) The refusal register that had been subsequently produced, could not be identified as chronological. There were large gaps in dates and there were no years on the dates.
- i) It was an offence to breach the licence. Taking into account the number of visits that the premises had received and the amount of non-compliance, the Sub-Committee was asked to consider revoking the licence.

David Tuitt made the following statements:-

- a) This was a small convenience store and its sales included alcohol and tobacco products.
- b) The seriousness of the matter was recognised and would not be downplayed.
- c) An alternative to revocation had been presented asking that a modification of the licence be the outcome.
- d) 11 new conditions had been proposed to address the issues around the discovery of non-duty-paid alcohol and illicit tobacco products.
- e) Photographs supplied showed how concerns were being addressed.
- f) It was suggested that the wording on the condition about CCTV could be amended to state that the footage be kept for a minimum of 31 days rather than up to 31 days, so add clarity.
- g) No more illicit goods would be stocked and they were happy to prohibit the sale of nitrous oxide.
- h) It was felt that this remedial action should be appropriate and a modification of the licence would ensure promotion of the licensing objectives.
- i) He apologised on the part of the licensee for the need for action.

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

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WMP made the following closing statements:-

- What had been seen up to this point was the wholesale ignoring of the law and licensing objectives, therefore the imposition of further conditions could not be seen as the answer as history would suggest that they would not be followed as they hadn't been up to this point.
- Mr Bay was in a position of trust to promote the licensing objectives, but had failed to follow the law despite two warnings and advice from traders notices. He was putting profit first.
- Operating conditions were also not being followed.
- The conditions were there to promote the licensing objectives, and given Mr Bay's history, it could not be seen how he could be trusted to promote the licensing objectives. Therefore it was requested that the licence be revoked and the DPS/PLH removed.

Christina McCullough, Birmingham City Council Licensing Enforcement following closing statements:-

- No matter how many conditions were on a licence, it would not solve the problem that the premises had shown it was not capable of following conditions.
- It should not be necessary for enforcement visits to ensure compliance.
- Mr Bay had a responsibility for compliance, and he could not even ensure compliance in the midst of a review.
- Papers provided did not prove anything nor had they changed her mind.
- It was asked that the licence be revoked and the DPS removed.

Paul Elson, Trading Standards made the following closing statements:-

- It was concerning that there had been an element of persistence whereby advice and conditions had been consistently ignored.
- He could not see how adding more conditions would enable compliance when information given had been ignored.
- The information given had been comprehensive and it had taken a long time to get the premises to comply.
- There were many continuing complaints.
- Mr Bay had seemed lured by profit.

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- There had been an abuse of trust and this behaviour should not be rewarded.
- The proposed conditions did not say anything about electronic nicotine devices, tobacco or nitrous oxide.
- There had been no refusals book prior to 22 August and the one submitted had no structure to it.
- He could not see any alternative but revocation.

David Tuitt made the following closing statements:-

- Mr Tuitt made reference to guidance from the Home Office stating that licensing authorities did not have the power to judge criminality or otherwise of any issue as this was a matter for the Courts. The licensing authority was not to establish guilt or innocence but to uphold the licensing objectives.
- There was a process for criminal charges. What had been discussed were allegations and no crime had yet been proven in this case.
- It was felt that the additional conditions proposed would be appropriate and proportionate for the promotion of licensing objectives.

Mahir Kilic made the following closing statements:-

- The Licensing Act 2003 was about objectives, not punishment.
- It was important to acknowledge that he had emailed the applicants regarding evidence, such as test purchases. It had been confirmed by email that test purchases had not taken place.
- Staff had been trained and conditions complied with.
- The Sub-Committee could be assured that the licence holder would be able to comply with conditions.

7/290823

RESOLVED

That, having reviewed the premises licence held under the Licensing Act 2003 by Nuri Bay in respect of Diamond Food and Wine, 1001-1003 Tyburn Road, Erdington, Birmingham B24 0TQ, upon the application of the Chief Officer of Weights and Measures, this Sub-Committee hereby determines that:

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- the Licence be revoked, and that
- Nuri Bay be removed as Designated Premises Supervisor

in order to promote the licensing objectives in the Act of the prevention of crime and disorder, public safety and the protection of children from harm. The Sub-Committee's reasons for revoking the licence were due to the concerns expressed by the three responsible authorities, as outlined fully in the Committee Report.

The application for review had been made by the Chief Officer of Weights and Measures (Trading Standards department of the City Council). An officer of Trading Standards attended the meeting, to summarise the background and the visits to the premises, exactly as per the documents in the Committee Report.

Since August 2022, complaints had been received about the premises relating to the sale of illegal product versions of tobacco, e-cigs/vapes, nitrous oxide and alcohol, to young people visiting the shop. A number of visits, by officers of three of the responsible authorities, had been conducted, and comprehensive advice given to the licence holder (who was also the designated premises supervisor).

The issue of concern was the discovery of illicit and non-compliant tobacco products, illegal e-cigs/vape products, illegal alcohol and nitrous oxide products. These were found after the premises had been given two warnings and ample time to comply with advice and instructions.

Trading Standards advised the Sub-Committee that the management control of the premises could “at best be described as lamentable, and at worst a threat to public safety and to persons under 18 years old”. The licence holder had originally blamed the previous owner and employees for the failings of the premises; Trading Standards had found this unpersuasive.

Efforts had been made by Trading Standards to engage, explain and encourage Mr Bay to comply, but the officer felt that the assistance “had been met with indifference and further non-compliances”. The officer reminded the Sub-Committee that an alcohol licence confers on a business a responsibility towards customers and the community around it, and remarked that the responsibility should mean that customers could have confidence in the management of the shop, and especially that they would not trade carelessly or illegally.

He noted that selling and dealing in illicit tobacco, e-cigs and alcohol “was a serious matter for numerous health reasons”, and explained the difference in strength of the types of e-cigs/vapes permitted under the legislation. He reminded the Sub-Committee

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that such products were not duty paid either (because they were illegal). There were also health risks to selling nitrous oxide.

The officer drew the attention of the Sub-Committee to the “casual attitude to flouting the law” shown by the licence holder, which he said was a significant risk to the upholding of the licensing objectives. During the investigation, the premises had been found to display numerous examples of illegal and non-compliant activity; moreover, the premises had continued to break the law despite receiving helpful advice and assistance from various officers of the responsible authorities. The Sub-Committee accepted that Trading Standards officers had done their utmost to carefully assist and support the licence holder to trade properly; however, their efforts had been undermined by the actions of the licence holder.

Trading Standards commented that the Sub-Committee should remember that the vast majority of retailers in Birmingham strove to comply with both the letter and the spirit of their licences, and “did not treat their community or the law with such casual indifference”; for that reason, Trading Standards requested the revocation of the premises licence and the removal of the designated premises supervisor.

The Sub-Committee then heard from West Midlands Police, who had noted from the Committee Report that Trading Standards had quite a history of attempting to help the premises, and indeed had visited on three occasions. The Police drew the attention of the Members to the trader’s notices which had been issued by Trading Standards. These gave the licence holder specific advice on the relevant legislation, and indeed outlined everything he should do to become compliant with the law such that he could uphold the licensing objectives properly.

The Police remarked that it was apparent that the licence holder had decided to ignore the advice given by Trading Standards, “clearly putting money and profit over the promotion of the licensing objectives”. The Police observed that whilst it was not illegal to possess nitrous oxide, it was an offence to supply it where a person knows or is reckless as to whether it would be used for its psychoactive effects.

The Police further noted that the nitrous oxide at Diamond Food and Wine had been hidden from public view, and also that balloons had been found next to the canisters. It was the Police view that this finding, when taken together with the intelligence regarding the sale of nitrous oxide to children, strongly suggested that the premises had perhaps been reckless regarding the sale of nitrous oxide. The Police explained that nitrous oxide canisters were often emptied into balloons; thereafter the gas would be inhaled from those balloons.

Regarding the illicit tobacco and e-cigs/vapes seized by Trading Standards, the Police advised the Sub-Committee that there was no possibility that they could have been purchased through the legitimate supply chain, as they were illegal for sale in the UK.

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The Police considered that the purchase by the premises of these illegal items would probably have been made in cash, and was thus unlikely to be reflected in the business accounts; certainly there had been no tax or duty paid. This meant that the items could be sold at a lower price than that offered by legitimate retailers, rendering legitimate retailers unable to compete on price. Moreover, due to the illicit supply chain, the premises could have no idea of the provenance of the products - not knowing if they were safe for sale to the public. The Sub-Committee found this very worrying in terms of the public safety objective.

The Police advised that illicit tobacco was a serious threat to public health because it increases access to problem products, often at cheaper prices, thus fuelling the tobacco epidemic and undermining tobacco control policies put in place by government. It also caused substantial losses in tax and customs revenue for government, and was also suspected to contribute to the funding of international criminal activities. The Sub-Committee noted this.

Regarding the licence holder, the Police view was that he had been given advice on previous occasions prior to the seizure of the items on the final visit, yet had quite clearly demonstrated that he was not prepared to trade within the limits of the law. The Police agreed with Trading Standards that the licence holder prioritised profit over the promotion of the licensing objectives of the prevention of crime and disorder, the promotion of public safety and protection of children from harm.

The Police also had concerns over that fact that identical complaints and intelligence about the sale of the same illicit products were still being received by Trading Standards, and reminded the Sub-Committee that the previous intelligence had been shown to be correct. The Police therefore supported the Trading Standards recommendation that the premises licence should be revoked.

The Sub-Committee then heard from Licensing Enforcement of the City Council. The enforcement officer had conducted an inspection to assess the level of compliance with the conditions of the licence, and had found that the only compliance was with the signage regarding the Challenge 25 policy.

Licensing Enforcement had identified numerous failures relating to the conditions - the entrance door was not fitted with an electronic locking device or similar, and nor was it closed between the hours of midnight until the close of business to ensure staff had control over customers entering the premises; indeed, the door was in fact wedged open with a small metal bar. The condition had originally been put on the licence due to the proximity of residential properties. The members of staff present in the inspection were asked what time the door was closed, and said that they closed it every day at 01:00 hours, which was when they closed the premises. The officer noted that between midnight and 01.00 the door should be closed.

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Other failures included staff training records; staff confirmed to the officer that they had not been trained, although documentation was forwarded later. The officer could not access the CCTV footage, and noted that one of the licence conditions was that CCTV should be digitally recorded for up to 31 days and available on request to the licensing authority. The conditions required that there would always be a member of staff on duty who was trained and able to show/download images from the CCTV system during operation under the opening hours. However, on the day in question, nobody at the premises could do this, and the officer therefore could not ascertain whether the CCTV was even working. The officer reminded the Members that CCTV conditions were imposed onto licences for a reason – in order to ensure that the licensing objectives could be upheld.

The officer observed to the Members that it had to be borne in mind that at the time of the inspection the licence holder was in fact out of the country, in Turkey, and asked the Sub-Committee to reflect on the fact that in case of some emergency requiring that the responsible authorities (particularly West Midlands Police) should have immediate access to CCTV footage, it would not have been available.

Notices were not displayed as required to ask customers and patrons to leave the premises quietly and be considerate of neighbours. This was unsatisfactory as there were numerous residential properties in the vicinity. The officer also noted that the licence was not displayed as required.

Licensing Enforcement had formed the view that the premises had “totally disregarded” the conditions of its licence, and had “taken no steps at all to ensure compliance”. The officer looked askance at the fact that the staff training records produced were actually completed on the day of the inspection. The premises had also produced a refusals register, but it was completely unsatisfactory, with large gaps in the dates, and moreover it was not in numerical order.

Taking into account the number of breaches of licence conditions, the number of visits paid to the premises, and the amount of advice that the premises had been given, Licensing Enforcement also recommended that the Sub-Committee should revoke the premises licence.

The Sub-Committee then heard from the licence holder, who attended the meeting together with two other persons - his agent, and also a representative who was acting as a Turkish interpreter for him. All of the licence holder's submissions were made via his agent, who explained that the shop was a small convenience store selling a wide range of groceries, fruit, vegetables and other household goods; amongst the range of goods offered were alcohol and tobacco products. Mr Bay had been the licence holder since July 2022, and had been involved in the business for about two years.

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The licence holder had no wish to downplay the seriousness of the Review application, and did not blame Trading Standards for calling the Review, but had drafted additional conditions as an alternative to Trading Standards' request for revocation. These proposed conditions were in the Committee Report. The licence holder asked that Members consider modification of the licence as a suitable determination – not revocation.

The 11 new conditions proposed by the licence holder had been specifically designed to address the issues that had been raised in the application, said the agent - namely the issues around the discovery of non-duty paid alcohol and also the discovery of illicit tobacco. The agent directed the attention of the Members to the photographs supplied (which were in the Report). These had been submitted in order to demonstrate that the issues raised by Licensing Enforcement had been addressed.

Regarding the proposed CCTV condition, the agent suggested further modification of that draft condition, such that CCTV would be digitally recorded for a minimum period of 31 days and be made available to an authorised officer upon request. The agent remarked that this would make the CCTV condition clearer.

Regarding the issue of nitrous oxide paraphernalia, the agent stated that the licence holder had not stocked any more of these products since the visit in February 2023, and that he was also happy to add a condition prohibiting the sale of nitrous oxide canisters, products or paraphernalia associated with the consumption of nitrous oxide.

The agent observed that whilst it was worth mentioning that the government had stated its intention that nitrous oxide would be banned this year, there would potentially be challenges in implementing any ban, given that the Home Office's own Independent Advisory Council on the Misuse of Drugs had felt that it could be disproportionate given the level of harm associated with nitrous oxide, and could create significant burdens for the legitimate use of the substance. However, regardless of this, the licence holder was willing to accept a condition regarding nitrous oxide.

Reference was made by the agent to the Guidance issued by the Home Office under section 182 of the Act. Paragraph 11.20 recommended that in deciding which of the powers to invoke in terms of review applications, it was expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify; thereafter, the remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of the concerns that had instigated the review. The Sub-Committee noted this.

The licence holder felt that that the modification of the licence by way of the additional conditions would ensure the promotion of the licensing objectives, and was confident that all of the issues raised by the responsible authorities could properly be addressed,

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in the manner recommended by paragraph 11.20 of the Home Office Guidance, by such a modification. The licence holder considered that in the circumstances revocation was neither necessary nor proportionate; modification of the licence would address all issues satisfactorily and promote the licensing objectives. The licence holder via his agent expressed his sincerest apologies to both the Sub-Committee and to the responsible authorities.

In response to the licence holder's proposals, all three of the responsible authorities confirmed that they did not find the suggested conditions satisfactory, and moreover, did not accept that modification of the conditions was a suitable alternative to revocation of the licence.

The Police drew the attention of the Sub-Committee to what the Police termed the "wholesale ignoring of the law and the licensing objectives by this premises", saying that the suggestion of an imposition of some further conditions was no answer to the problem, given the history of the premises. The Police, who were the experts in crime and disorder, considered that the new conditions were unlikely to be followed, as the existing terms of the licence had not been followed in the first place. The Sub-Committee agreed that, given what had been seen in the officer visits, it did seem very unlikely.

The Police further observed that Mr Bay was in a position of trust as both the licence holder and the designated premises supervisor – yet had failed to follow the law and/or to promote the licensing objectives. He had been given two warnings and comprehensive advice in the form of trader's notices, but had still failed to follow the law, putting profit above public safety. He had not followed his own operating conditions.

The advice of the Police was that, given this history, it was not seen how Mr Bay could be trusted to promote the licensing objectives. Hitherto, he had appeared to be completely unable and/or unwilling to do so in relation to the sale of tobacco, e-cigs/vapes, alcohol and nitrous oxide, or to follow his operating conditions. The Police asked the Sub-Committee, "so therefore, why would he follow the law and the licensing objectives now?" The Members agreed that this argument was persuasive, and they noted that the Police recommendation was that the licence be revoked and that the designated premises supervisor be removed.

Licensing Enforcement agreed with the Police, stating that the issues at the premises were such that "no matter how many conditions you put on the licence, it will not solve the problem", as the licence holder had proven himself incapable of complying with conditions. The officer stated that putting more conditions onto the licence did not mean that the licence holder would follow them, and indeed added that it "could have even the opposite effect", because to allow the premises to continue to trade was unsafe. The Sub-Committee accepted that there was a strong likelihood that the new

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conditions would not be followed, and that this created a significant risk to the licensing objectives.

Licensing Enforcement observed that it should not be the case that enforcement visits from the responsible authorities were required in order to ensure compliance. It was the responsibility of the licence holder, who was in this case also the designated premises supervisor, to comply; the officer reminded the Sub-Committee that it was an offence not to comply.

The officer felt that it should not take a visit, and certainly not repeated visits, in which the responsible authorities told him what he ought to do in order to trade properly, to ensure that a licence holder operated within the law. The officer reminded the Sub-Committee that it was Mr Bay himself who held the responsibility for compliance. The Members accepted that this was the case, and were not at all impressed that the licence holder had needed a series of repeated visits by officers.

Licensing Enforcement pointed out that the licence holder had been away to Turkey without putting measures in place to ensure that the business was being legally operated. He had allowed major breaches to occur; the level of non-compliance with the premises licence, and the other breaches, were of a serious nature. The officer therefore asked that the premises licence be revoked and the designated premises supervisor be removed.

Trading Standards agreed with both the Police and Licensing Enforcement, drawing the Members' attention to "the element of persistence" shown by the licence holder. Trading Standards noted that Mr Bay had consistently ignored all the advice; on that basis, the Trading Standards officer concurred with those from the other responsible authorities, remarking that he could not see how adding more conditions and making the licence more complex would enable Mr Bay to comply when he had always ignored the advice, information and support he had been given.

Regarding the proposed conditions, Trading Standards found them entirely unsatisfactory. There were no, or insufficient, provisions regarding e-cigs/ vapes, tobacco, and nitrous oxide; leaving that aside, the officer's view was that even if other conditions were added to cover these matters, he could not see them working, given that the licence holder had been "ignoring all of us since the beginning of August 2022".

Trading Standards also reminded the Sub-Committee of the issues with the refusals book. In August 2022, there had been no refusal book on the premises; thereafter, the refusals book which had been submitted had been both unusual and entirely unsatisfactory. All in all, Trading Standards felt that the suggested conditions were not sufficient, and in any event would not be upheld.

Licensing Sub-Committee B – 29 August 2022

The officer observed that the information that Trading Standards had given the premises had been comprehensive, and the officer had personally spent a long time attempting to get Diamond Food and Wine to comply; of particular note was that the action taken, namely the seizure of the relevant items, “did not seem to have affected him at all”.

The officer’s opinion was that the licence holder was motivated purely by profit; he stated that he could not see any other reason for ignoring the law. The officer considered that this was “a shameless abuse of the trust” that had been placed in the licence holder, and strongly recommended that such behaviour should not be rewarded by allowing him to continue to trade; the proper course was to revoke the licence to ensure the promotion of the licensing objectives. The Sub-Committee found this highly persuasive.

The agent, in his concluding remarks, again drew the attention of Members to the Home Office Guidance at paragraph 11.24. He explained that the reason for this was because submissions had been made by the officers about the law, and ignorance of the law.

The agent pointed out that the Guidance at paragraph 11.24 advised that licensing authorities did not have the power to judge the criminality, or otherwise, of any issue; that was a matter for the courts. Instead, the licensing authority’s role when determining such a review was to ensure the promotion of the crime prevention objective, and not to establish the guilt or innocence of any individual. He stated that whilst allegations had been made, no criminal offence had been proven via the courts.

The Sub-Committee accepted that this was the case, but viewed the evidence brought by officers on its own merits. It was entirely usual that officers of the responsible authorities, as experts in their respective fields, brought evidence to the Sub-Committee without prosecution action having been taken. It was for the Members to examine the evidence, and to make a determination in the light of that evidence.

The agent repeated the offer of modification of the conditions. The licence holder remained confident that the suggested conditions would address all issues raised in the Review application.

The Sub-Committee then heard from the licence holder’s representative who had attended to act as interpreter. He was of the opinion that any punishment or penalty should only be given by the courts, and asked whether any enforcement action had been taken by the responsible authorities, such as test purchases. He considered that as there had not been any test purchases, there was no evidence of any underage sales. The Sub-Committee was not persuaded by this; the central issue was the presence of illicit goods at the premises. The evidence had shown that illicit goods were in fact stocked at the premises, and had indeed been seized.

The representative reminded the Sub-Committee that the issue was whether the premises could promote the four licensing objectives or not; he felt that the addition of the proposed conditions would be sufficient to ensure this. However, the Sub-Committee had already heard very lengthy submissions on this point from all three of the responsible authorities, each of whom had pointed out that the licence holder had not followed the existing conditions, and moreover had acted against all the advice he had been given on numerous occasions.

The representative agreed that the licence holder had been away, but observed that “he came back”. The door control system was working, as was the CCTV system; the licence holder and staff had been retrained and training records were available, together with a refusals book. The licence holder was complying with all of the conditions, said the representative, and asked that the Members be assured that the licence holder would comply with the proposed conditions, along with the current operating schedule.

When deliberating, the Sub-Committee agreed with the responsible authorities that for any licensed premises to be involved in trading illicit goods put the licensing objectives at very grave risk; as such, the Sub-Committee took a very dim view of it. It was a drain on the public purse, as the responsible authorities had to allocate resources to investigate and deal with activity which had been undertaken, for profit, by a person who should have been more than aware of the standards expected of all licence holders in Birmingham.

The Sub-Committee looked at all options when making its decision, and placed particular emphasis on the need to ensure that it had confidence that the management of the shop would not engage in, and encourage, dubious practices; illicit goods negatively affected not only consumers, but also respectable local businesses in Birmingham.

The Members bore in mind the agent’s remarks that their decision had to address the causes of the risks to the licensing objectives in a reasonable and proportionate way, as per the Home Office Guidance. All three officers at the meeting had observed that they had no confidence whatsoever in the management at the premises to uphold the licensing objectives.

After scrutinising the evidence carefully, in particular the advice and support given by officers during the visits, the Members shared these concerns. The Members were unsure as to how Mr Bay had felt that his style of management was a proper way to operate licensed premises. Nothing in his operating style inspired confidence.

Licensing Sub-Committee B – 29 August 2022

Officers had remarked that the licence holder was not following his existing conditions, and therefore it was not at all likely that he would properly observe any additional conditions; the Members agreed with this, and for that reason they found themselves unable to accept that to modify the conditions was the proper course.

The evidence, and in particular that of Trading Standards, had shown a complete disregard for the law by the licence holder. The operation had been managed in a way that was not merely irresponsible, but also illegal. The findings had shown a lack of professional supervision and control by Mr Bay as the licence holder, and in short he had demonstrated that he was incapable of upholding the licensing objectives. This was completely unacceptable, and a significant risk to the upholding of the licensing objectives, given that he was also the designated premises supervisor.

The Members gave consideration to whether they could impose some other sanction, such as suspension of the licence for a specified period, but were not satisfied, given the evidence submitted, that the licensing objectives would be properly promoted following any such determination, or that the premises would operate within the law if the determination was simply to suspend. The Members again bore in mind what had been found and seized by officers.

After scrutinising all the evidence, the Sub-Committee determined that the breaches were indeed so serious that they could not be tolerated. A determination to revoke and to remove the designated premises supervisor would follow the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003, and was an entirely proportionate sanction given that the premises' style of operation seriously undermined the prevention of crime and disorder, public safety and protection of children from harm objectives in Birmingham.

There were no compelling reasons to depart from the Guidance on this occasion. To take some other course (other than revocation and removal of the designated premises supervisor) ran the risk of sending a message that the presence of illicit goods in licensed premises was not a serious matter, or that there would be no consequences for illegal activities, which the Sub-Committee was not prepared to do. The Sub-Committee therefore resolved to revoke the licence and to remove Nuri Bay as designated premises supervisor.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under section 182 of the Licensing Act 2003 by the Secretary of State, the application for review, the written representations received and the submissions made at the hearing by Trading Standards, West Midlands Police and Licensing Enforcement, and by the licence holder via his agent and his representative.

Licensing Sub-Committee B – 29 August 2022

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

The determination of the Sub-Committee does not have effect until the end of the twenty-one day period for appealing against the decision or, if the decision is appealed against, until the appeal is determined.

Report to:	Licensing Sub Committee B
Report of:	Director of Regulation & Enforcement
Date of Meeting:	Tuesday 10th October 2023
Subject:	Licensing Act 2003 Premises Licence – Variation
Premises:	O Bar, 265 Broad Street, Ladywood, Birmingham, B1 2DS
Ward affected:	Ladywood
Contact Officer:	Bhapinder Nandhra, Senior Licensing Officer, licensing@birmingham.gov.uk

1. Purpose of report:

To consider the relevant representations that have been made in respect of an application to vary the Premises Licence which initially sought to remove the following condition:

- From 21.00hrs premises to operate an ID scanner. All customers will be required to provide ID to satisfy the scanning requirement. No ID or ID not accepted then no entry.

The applicant has now amended the scope of the application by modifying this condition to the following:

- From 21.00hrs premises to operate an ID scanner. All customers who appear to be under 25 will be required to provide ID to satisfy the scanning requirement. In relation to these customers, no ID, or ID not accepted, then no entry."

For reasons of consistency the applicant also seeks to modify the following condition to Challenge 25:

- Persons who appear to be under the age of 21 should be required to provide proof of age by way of passport, photo driving licence or PASS accredited proof of age scheme.

The applicant's modification is attached to this report as an Appendix.

2. Recommendation:

To consider the representations that have been made and to determine the application, having regard to:

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

3. Brief Summary of Report:

Variation application received on 18th August 2023 in respect of O Bar, 265 Broad Street, Ladywood, Birmingham, B1 2DS.

Representations have been received from West Midland Police, as a responsible authority and from other persons.

4. Compliance Issues:
4.1 Consistency with relevant Council Policies, Plans or Strategies:
<p>The report complies with the City Council's Statement of Licensing Policy and the Council's Corporate Plan to improve the standard of all licensed persons, premises and vehicles in the City.</p>
5. Relevant background/chronology of key events:
<p>City Leisure Entertainment Limited applied on 18th August 2023 to vary the Premises Licence for O Bar, 265 Broad Street, Ladywood, Birmingham, B1 2DS.</p> <p>A representation has been received from West Midlands Police, as a responsible authority, which is attached at Appendix 1.</p> <p>A representation has been received from other persons, which is attached at Appendix 2.</p> <p>The application is attached at Appendix 3.</p> <p>The modification to the application is attached at Appendix 4.</p> <p>The current Premises Licence is attached at Appendix 5.</p> <p>Site Location Plans at Appendix 6.</p> <p>When carrying out its licensing functions, a licensing authority must have regard to Birmingham City Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under s182 of the Licensing Act 2003. The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are:-</p> <ol style="list-style-type: none"> The prevention of crime and disorder; Public safety; The prevention of public nuisance; and The protection of children from harm.
6. List of background documents:
<p>Copies of the representations as detailed in Appendices 1 & 2.</p> <p>Application Form, Appendix 3.</p> <p>Modification to the application, Appendix 4.</p> <p>Current Premises Licence, Appendix 5.</p> <p>Site Location Plans, Appendix 6.</p>
7. Options available
<p>To grant the variation application</p> <p>To refuse the whole or part of the application</p> <p>To modify the conditions of the Licence</p>

From: bw licensing
Sent: 21 August 2023 09:42
To: Licensing
Cc:
Subject: Variation - O Bar REF 1410909

Good Morning Licensing,

West Midlands Police object to this application, under the prevention of crime and disorder licensing objective.

The condition which the premises are looking to remove is a licensing committee imposed condition (05.06.23) after an expedited review following 2 section 18 woundings in the premises, whereby a weapon was used.

The condition was agreed with West Midlands Police by the premises and their licensing representative and was presented to the committee as such, at the full hearing. The premises obviously did not appeal the decision made by the committee.

West Midlands Police believe that the removal of this condition will undermine the prevention of crime and disorder licensing objective

I have copied the applicant's representative into this email.

Regards

Chris Jones 55410

Central Licensing Team West Midlands Police

Representations by WestSide Business Improvement District, in respect of variation application, O'Bar 264, Broad Street, Birmingham, B1 2DS

The Equality Act 2010 – An Introduction

The Equality Act 2010 is a legal requirement which protects individuals from discrimination and identifies age as one of its nine protected characteristics.

Under this legislation it is illegal for any individual, business, organisation or public body to discriminate or disadvantage anyone based on their age. It would be unlawful to do so and could be subject to legal action.

Discrimination or unfair treatment, whether direct or indirect, falls within the requirements of the Equality Act 2010.

Background

It is our view that age discrimination has occurred as a result of a decision made by Birmingham City Council and West Midlands Police and that this decision specifically disadvantages people based on their age.

Not only does this decision contradict the Equality Act 2010, we believe it also goes against Birmingham City Council's and West Midlands Police's equality strategies.

Birmingham City Council: Birmingham City Council has an Equalities Strategy entitled - Everyone's Battle Everyone's Business – Together We Will Tackle Inequalities.

In this strategy, Birmingham City Council's states that it will:

"Review the use, quality and impact of Equality Impact Assessments to improve council policy and practice."

In relation to its equalities commitment, it further states that it will:

"Understand the diverse range of views and perspectives of citizens and ensure solutions are based on the widest available evidence. We will take an intersectional approach to understand how people experience inequality according to their social class, age, gender, ethnicity, disability and sexual orientation. This means looking at the multiple disadvantages faced by different groups of people and using the latest data and research to underpin policy development and service design."

At 6.7.1 in Birmingham City Council's Statement of Licensing Policy it states the following:

"The council is committed to: seeking to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010; advancing equality of opportunity between people who share a protected characteristic and those who do not; and, fostering good relations between people who share a protected characteristic and those who do not."

With regard to the above we believe that no Equalities Impact Assessment has taken place, nor due regard of the decision's impact on protected groups as defined by the Equality Act 2010.

A Flawed Decision Based on Association with Younger People

Page 11 of Everyone's Battle Everyone's Business, Birmingham City Council acknowledges Birmingham's young population. The strategy states:

"According to the annual Birmingham Economic Review (2020), Birmingham is "one of the youngest major cities in Europe". In 2019, under 25's accounted for 37.5% (428,590) of Birmingham's total population. In addition, ONS mid-2019 population estimates state that the median age is 32.6 years, while the average for England and Wales is 40.2.

We believe that this general knowledge has been influential in an assumption of the "type" of person that attends O'Bar and that no regard has been taken in respect of older, more mature patrons that regularly attend O'Bar.

As such, we feel the decision made by Birmingham City Council in association with West Midlands Police is based on inaccurate profiling and out of date stereotyping and that this has indirectly discriminated against older, more mature patrons of O'Bar. We believe that this has assumption has been made through association - that all patrons of O'Bar are young people. However, this is not the case.

Discrimination, Unfair Treatment and Disadvantage Faced by Older Patrons

It is illegal for a public authority, which includes both Birmingham City Council and West Midlands Police, to discriminate against anyone with a protected characteristic. This includes:

- refusing to provide someone with a service or to stop providing them with a service.
- giving someone a service on worse terms or of worse quality - for example, making you wait longer.
- causing someone harm or disadvantage when providing them with a service - the Equality Act calls this a detriment.

Discrimination based on an association with someone, or a group of individuals is defined in the Equality Act 2010 and is illegal.

We believe that older patrons are being disadvantaged by the barrier placed on them by being asked to show their personal ID when entering O'Bar.

Older patrons are therefore being subjected to unwarranted, unnecessary and unfair treatment – as a result of their association with younger people.

We believe that older patron's access to a service i.e., access to O'Bar, is on worse terms or of worse quality following this decision. This is illegal according to the Equality Act 2010. This is because:

- Older patrons who use O'Bar were historically never asked to provide proof of who they are on entry to this venue. Nor was this policy historically applied to venues more widely. This decision

has therefore disadvantaged this group as they are being asked to wait longer in queues in order to gain access to the venue. In accordance with the Equality Act 2010 we believe they are subject to a detriment.

- Additionally, proof of ID is usually associated with providing proof of age. Older, more mature people in the United Kingdom are never asked to prove their age and therefore do not routinely carry ID with them. Patrons of O'Bar are therefore routinely being turned away from O'Bar as they do not meet this new requirement. We would add that in order to require older people to provide ID as a matter of course, would require new government legislation and this decision would not be up to the local council.

On page 17 of Everyone's Battle Everyone's Business under the heading Five Equality Objectives - Embedding Equalities in Everything We do, Birmingham City Council states:

"As a public body, the City Council has a legal duty under the Public Sector Equality Duty Equality Act 2010.....to ensure individuals and groups of people identifying with one or more of the nine protected characteristics as defined by law are given protection from discrimination."

"Under the Public Sector Equality Duty, the council must, in exercising our functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it."

It further states:

"The duty ensures the council considers its decisions to advance equality, inclusion and diversity by removing or minimising disadvantages experienced by people because of their protected characteristics.

We do not believe that Birmingham City Council or West Midlands Police is fully exercising their duties under the Public Sector Equality Duty Equality Act 2010.

Additionally, on Page 11, there are 5 pillars of commitment relation to all protected characteristics, of which age is one. Birmingham City Council states that it will:

"Understand our diverse communities and embed that understanding in how we shape policy and practice across the Council."

On page 22 of the same strategy Birmingham City Council makes a commitment to "Actively listen to the voices of lived experience" by stating that:

"Those who are affected by inequalities should be at the heart of designing solutions – they should be around the decision-making table, reflecting the fact that we can only change the structure of society by changing who designs it'."

West Midlands Police has an equality strategy entitled Fairness & Belonging 2021/25 - Our Force Strategy for Diversity & Inclusion.

Although this document does not single out age inequality it does make a public commitment towards addressing discriminatory practice in the Police. Under the section, "Work with our Partners to 'Understand' and 'Tackle' Disparities, West Midlands Police states:

"We will work with our partners internally and externally to understand and tackle disparities to improve service delivery."

In relation to "Understanding our communities," they state:

"We will better understand the identities, needs and history of our communities through better collection and analysis of data and information across core strands of diversity."

With regard to "Engagement & good relations" they state:

"We will develop effective engagement strategies that enable interaction with all communities, fostering strong relationships that build trust and confidence. We will ensure our values and code of ethics are embedded in all our interactions."

"Develop an inclusive citizen engagement model to ensure that the city's diverse communities are fully represented, including those that often struggle to get a hearing. This will enable us to work with communities to properly understand the different experiences of inequalities and together, decide the immediate and longer-term measures needed to address them."

With regard to increasing public confidence, they state:

"We will increase public confidence by being fair, proportionate, transparent and accountable."

They also make a commitment to improve joint working with partners stating:

"We will improve 'our' methods to capture diversity data to enhance joint service delivery."

"We will undertake routine Equality Assessments to 'identify' and 'tackle' the causes of disparities."

"We will work with our partners to 'identify' and 'tackle' the causes of disparities to enhance service delivery."

In their Equality, Diversity and Human Rights Objectives they further state that they will "engage with "a variety of reference groups and community partners."

Additionally, through good levels of public engagement they state:

"We will enrich our community profiles to gain a better understanding of the demographics of the communities we serve."

It is our opinion that West Midlands Police have not undertaken the actions stated in their own public strategies as indicated above and as such:

- Has failed to demonstrate an understanding of the patron profile of O'Bar, or made sufficient efforts to do so.
- Have undertaken no community engagement exercise or made efforts to do so.
- Have not carried out an Equalities Impact Assessment to gauge the impact of their decision.

However, we feel there is still scope, opportunity and sufficient time for them to do so by engaging positively with and responding to the findings of Westside BID.

Our Recommendation

It is our view that Westside BID is in the right position in which to share the views and experiences of older patrons of O'Bar who feel they have been disadvantaged by Birmingham City Council and West Midlands Police's decision, which is primarily aimed at anti-social and criminal behaviour associated with younger people, and age verification.

We feel Westside BID should therefore be involved in the design of a solution with Birmingham City Council and West Midlands Police in accordance with their public equality strategies as detailed in this report.

We also ask that the impact of their decision is reviewed to consider its financial impact on O'Bar during the current economic crisis and how this may affect them in the immediate and long term.

We therefore urge the Licensing Sub-Committee of Birmingham City Council to review their previous determination with a view to removing the disadvantages caused as a result of their decision which negatively impacts on older patrons of O'Bar.

WestSide BID

15/09/2023



Birmingham
Application to vary a premises licence
Licensing Act 2003

For help contact
licensingonline@birmingham.gov.uk
 Telephone: 0121 303 9896

* required information

Section 1 of 18

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference This is the unique reference for this application generated by the system.

Your reference You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?
☒ Yes ☐ No Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

* Family name

* E-mail

Main telephone number Include country code.

Other telephone number

☒ Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

☒ Applying as a business or organisation, including as a sole trader A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

☐ Applying as an individual

Applicant Business

Is the applicant's business registered in the UK with Companies House? ☒ Yes ☐ No Note: completing the Applicant Business section is optional in this form.

Registration number

Business name If the applicant's business is registered, use its registered name.

VAT number Put "none" if the applicant is not registered for VAT.

Legal status

Continued from previous page...

Applicant's position in the business

Home country

The country where the applicant's headquarters are.

Registered Address

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Agent Details

* First name

* Family name

* E-mail

Main telephone number

Include country code.

Other telephone number

☐ Indicate here if you would prefer not to be contacted by telephone

Are you:

☒ An agent that is a business or organisation, including a sole trader

A sole trader is a business owned by one person without any special legal structure.

☐ A private individual acting as an agent

Agent Business

Is your business registered in the UK with Companies House? ☒ Yes ☐ No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name

If your business is registered, use its registered name.

VAT number

Put "none" if you are not registered for VAT.

Legal status

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

Agent Registered Address

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Section 2 of 18

APPLICATION DETAILS

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

I/we, as named in section 1, being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in section 2 below.

* Premises Licence Number

Are you able to provide a postal address, OS map reference or description of the premises?

☒ Address ☐ OS map reference ☐ Description

Postal Address Of Premises

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Premises Contact Details

Telephone number

Continued from previous page...

Non-domestic rateable
value of premises (£)

27,250

Section 3 of 18

VARIATION

Do you want the proposed
variation to have effect as
soon as possible?

☒ Yes

☐ No

Do you want the proposed variation to have effect in relation to the
introduction of the late night levy?

☐ Yes

☒ No

You do not have to pay a fee if the only
purpose of the variation for which you are
applying is to avoid becoming liable to the
late night levy.

If your proposed variation
would mean that 5,000 or
more people are expected to
attend the premises at any
one time, state the number
expected to attend

Describe Briefly The Nature Of The Proposed Variation

Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.

Removal of a single condition from the premises licence.

Section 4 of 18

PROVISION OF PLAYS

[See guidance on regulated entertainment](#)

Will the schedule to provide plays be subject to change if this application to
vary is successful?

☐ Yes

☒ No

Section 5 of 18

PROVISION OF FILMS

[See guidance on regulated entertainment](#)

Will the schedule to provide films be subject to change if this application to
vary is successful?

☐ Yes

☒ No

Section 6 of 18

PROVISION OF INDOOR SPORTING EVENTS

Continued from previous page...	See guidance on regulated entertainment
<p>Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?</p> <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p>	
Section 7 of 18	
PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS	
<p>See guidance on regulated entertainment</p> <p>Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?</p> <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p>	
Section 8 of 18	
PROVISION OF LIVE MUSIC	
<p>See guidance on regulated entertainment</p> <p>Will the schedule to provide live music be subject to change if this application to vary is successful?</p> <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p>	
Section 9 of 18	
PROVISION OF RECORDED MUSIC	
<p>See guidance on regulated entertainment</p> <p>Will the schedule to provide recorded music be subject to change if this application to vary is successful?</p> <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p>	
Section 10 of 18	
PROVISION OF PERFORMANCES OF DANCE	
<p>See guidance on regulated entertainment</p> <p>Will the schedule to provide performances of dance be subject to change if this application to vary is successful?</p> <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p>	
Section 11 of 18	
PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE	
<p>See guidance on regulated entertainment</p> <p>Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?</p> <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p>	
Section 12 of 18	
PROVISION OF LATE NIGHT REFRESHMENT	

Continued from previous page...

Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?

☐ Yes

☒ No

Section 13 of 18

SUPPLY OF ALCOHOL

Will the schedule to supply alcohol be subject to change if this application to vary is successful?

☐ Yes

☒ No

Section 14 of 18

ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Provide information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

N/A

Section 15 of 18

HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

Start

End

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

Continued from previous page...

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

From 21.00hrs premises to operate an ID scanner. All customers will be required to provide ID to satisfy the scanning requirement. No ID or ID not accepted then no entry

- ☐ I have enclosed the premises licence
- ☐ I have enclosed the relevant part of the premises licence

Reasons why I have failed to enclose the premises licence or relevant part of premises licence.

Not to hand

Section 16 of 18

LICENSING OBJECTIVES

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

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

Continued from previous page...

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b) The prevention of crime and disorder

--

c) Public safety

--

d) The prevention of public nuisance

--

e) The protection of children from harm

--

Section 17 of 18

NOTES ON REGULATED ENTERTAINMENT

Continued from previous page...

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
 - o a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - o any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

Continued from previous page...

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

Section 18 of 18

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Premises Licence Fees are determined by the non domestic rateable value of the premises.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at <https://www.tax.service.gov.uk/business-rates-find/search>

Band A - No RV to £4300 - £100.00

Band B - £4301 to £33000 - £190.00

Band C - £33001 to £87000 - £315.00

Band D - £87001 to £125000 - £450.00*

Band E - £125001 and over - £635.00*

*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then you are required to pay a higher fee

Band D - £87001 to £125000 - £900.00

Band E - £125001 and over - £1,905.00

There is an exemption from the payment of fees in relation to the provision of regulated entertainment at church halls, chapel halls or premises of a similar nature, village halls, parish or community halls, or other premises of a similar nature. The costs associated with these licences will be met by central Government. If, however, the licence also authorises the use of the premises for the supply of alcohol or the provision of late night refreshment, a fee will be required.

Schools and sixth form colleges are exempt from the fees associated with the authorisation of regulated entertainment where the entertainment is provided by and at the school or college and for the purposes of the school or college.

If you operate a large event you are subject to ADDITIONAL fees based upon the number in attendance at any one time

Capacity 5000-9999 - £1,000.00

Capacity 10000-14999 - £2,000.00

Capacity 15000-19999 - £4,000.00

Capacity 20000-29999 - £8,000.00

Capacity 30000-39999 - £16,000.00

Capacity 40000-49999 - £24,000.00

Capacity 50000-59999 - £32,000.00

Capacity 60000-69999 - £40,000.00

Capacity 70000-79999 - £48,000.00

Capacity 80000-89999 - £56,000.00

Capacity 90000 and over - £64,000.00

* Fee amount (£)

190.00

DECLARATION

Continued from previous page...

I/WE UNDERSTAND THAT 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.

☒ Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name
* Capacity
* Date / /
dd mm yyyy

[Add another signatory](#)

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
 2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/birmingham/change-1> to upload this file and continue with your application.
- Don't forget to make sure you have all your supporting documentation to hand.

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.

From: Duncan Craig
Sent: 04 September 2023 21:41
To: Licensing
Cc: bw licensing ;
Subject: RE: Police Rep to Variation - O Bar REF 1410909

Dear Licensing

As you know, I am instructed to represent the above licence holder in relation to the extant variation application.

The original application was to remove the single condition relating to the ID scanner. There was always a possibility that this variation would be subject to amendment once I had the opportunity to discuss this application with my client face to face, which I could not do prior to going on annual leave late last month, shortly after the application was submitted.

I had that meeting on site last week, following which I am instructed to instead modify the material condition (rather than remove it altogether) to the following:

“From 21.00hrs premises to operate an ID scanner. All customers who appear to be under 25 will be required to provide ID to satisfy the scanning requirement. In relation to these customers, no ID, or ID not accepted, then no entry.”

This proposed modified condition is more onerous to the licence holder than the proposed removal of the existing 1 condition- and so such an amendment to the application is permissible at this stage.

For reasons of consistency, I am also instructed to amend the current challenge 21 condition (that applies at all times) to challenge 25. Again, this is more onerous to the licence holder than the current condition

. West Midlands Police (copied) were made aware of this possible amendment to the application at the outset, but I am aware it will not change their position in relation to this variation application.

Many thanks.

Kind regards,

Duncan Craig
Barrister

Licensing Act 2003**Premises Licence**

Premises Licence Number	2621
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Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description O Bar, 265 Broad Street, Birmingham, B1 2DS
Telephone Number Not Specified

Where the licence is time limited the dates N/A

Licensable activities authorised by the licence Sale of Alcohol by Retail Provision of Late Night Refreshment Performance of Live Music Playing of Recorded Music Performance of Dance
--

Times the licence authorises the carrying out of licensable activities

<u>Sale of Alcohol by retail:</u>		
<u>Day</u>	<u>Start Time</u>	<u>End Time</u>
Monday	10:00	04:00
Tuesday	10:00	04:00
Wednesday	10:00	04:00
Thursday	10:00	04:00
Friday	10:00	04:00
Saturday	10:00	04:00
Sunday	10:00	04:00
Place:		
Seasonal Variations:		
Non-Standard Times:		

<u>Provision of Late Night Refreshment:</u>		
<u>Day</u>	<u>Start Time</u>	<u>End Time</u>
Monday	23:00	04:30
Tuesday	23:00	04:30
Wednesday	23:00	04:30
Thursday	23:00	04:30
Friday	23:00	04:30
Saturday	23:00	04:30
Sunday	23:00	04:30
Further Details:		
Place:		
Seasonal Variations:		
Non-Standard Times:		

Performance of Live Music:

<u>Day</u>	<u>Start Time</u>	<u>End Time</u>
Monday	10:00	04:30
Tuesday	10:00	04:30
Wednesday	10:00	04:30
Thursday	10:00	04:30
Friday	10:00	04:30
Saturday	10:00	04:30
Sunday	10:00	04:30

Further Details:**Place:****Seasonal Variations:****Non-Standard Times:****Playing of Recorded Music:**

<u>Day</u>	<u>Start Time</u>	<u>End Time</u>
Monday	10:00	04:30
Tuesday	10:00	04:30
Wednesday	10:00	04:30
Thursday	10:00	04:30
Friday	10:00	04:30
Saturday	10:00	04:30
Sunday	10:00	04:30

Further Details:**Place:****Seasonal Variations:****Non-Standard Times:****Performance of Dance:**

<u>Day</u>	<u>Start Time</u>	<u>End Time</u>
Monday	10:00	04:30
Tuesday	10:00	04:30
Wednesday	10:00	04:30
Thursday	10:00	04:30
Friday	10:00	04:30
Saturday	10:00	04:30
Sunday	10:00	04:30

Further Details:**Place:****Seasonal Variations:****Non-Standard Times:****The opening hours of the premises**

<u>Day</u>	<u>Start Time</u>	<u>End Time</u>
Monday	10:00	04:30
Tuesday	10:00	04:30
Wednesday	10:00	04:30
Thursday	10:00	04:30
Friday	10:00	04:30
Saturday	10:00	04:30
Sunday	10:00	04:30
Seasonal Variations:		
Non-Standard Times:		

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

For consumption on and off the premises

Part 2

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

City Leisure Entertainment Limited
1192 Stratford Road, Birmingham, B28 8AB

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

Company Number:12321467

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

Miss Ruxandra Niculescu

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Licence Number: 7950
Issuing Authority: Birmingham City Council

Dated 06-04-2020

Shaid Yasser
Senior Licensing Officer
For Director of Regulation & Enforcement

Annex 1 – Mandatory Conditions

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

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

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

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

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

The responsible person must ensure that - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures - (i) beer or cider: 1/2 pint; (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and (iii) still wine in a glass: 125 ml; (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price. (2) In this condition: - (a) "permitted price" is the price found by applying the formula $P = D + (D \times V)$, where - (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol; (b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence - (i) the holder of the premises licence, (ii) the designated premises supervisor (if any) in respect of such a licence, or (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence; (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994. (3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny. (4) Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Each individual assigned to carrying out a security activity must be licensed by the Security Industry Agency.

Annex 2 – Conditions consistent with the Operating Schedule

No 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 are permitted on the premises.

Regulated entertainment is permitted to take place inside the premises only.

Sale of alcohol will cease 30 minutes prior to the closure of the premises.

The premises will have a refusals book, where they will document persons refused entry to the premises due to being under age.

No customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.

No customers will be allowed to leave the premises carrying open bottles or glasses.

An incident book will be retained at the premises and available for inspection by the police and the licensing authority. The incident book will be used to detail any incidents in the premises.

Door supervisors, when employed outside the premises shall wear high visibility tabards or jackets. When door supervisors are working inside the premises, they shall wear high visibility armbands.

An SIA registered door supervisor shall be employed at all times when the downstairs (O Below) is in use.

CCTV shall be maintained of good quality recording at the premises and will be operational throughout any period when the premises are open to the public. CCTV will be fitted to the specification and approval of the Police.

The CCTV recordings will be kept at the premises for a minimum of 31 days and be available for inspection to the police on request. CCTV tapes will be stored in a secure location (if used).

During major sporting events, the premises management shall follow the advice provided by West Midlands Police, and use polycarbonate glasses when advised to do so for such events.

SIA registered door staff shall be employed at the premises at a ratio of door staff to customers which the Designated Premises Supervisor considers to be sufficient following a risk assessment. The risk assessment will be provided to the police prior to operation, and for the Police to assess the security level.

The premises will liaise with the Licensing Department at Central Police Station, if they intend to put on a high risk event (high risk is defined as an event which is designed solely for a specific audience type attracted by what the premises is providing).

The DPS will put in place a drugs and lost property policy applicable to the premises which can be inspected by the police on request. This must be to the approval of the Police (Licensing Dept).

Persons who appear to be under the age of 21 should be required to provide proof of age by way of passport, photo driving licence or PASS accredited proof of age scheme.

A register of all door staff on duty on each day of trading will be retained at the premises and will be available for inspection by the police or the licensing authority. This register will contain a daily signing in sheet, and also profiles proof of address and identity. If the proof of address is a utility bill it must be dated within the last 6 months.

If the premises show any recognised national or international sporting event then the premises will adhere to any advice given to venues by West Midlands Police.

The Designated Premises Supervisor will be required to be an active member of the Local Pub Watch Scheme (where active).

Where the premises are required to use plastic glasses, for any reason then they must be government stamped.

A risk assessment shall be carried out in conjunction with West Midlands Fire Authority to determine safe capacity levels for the premises. Such levels will be displayed within the premises.

The premises will have a member of staff who is a qualified first aider on the premises at all times that it is open to the public.

All staff at the premises will receive training in relation to licensing law, health and safety and fire safety issues. A record of this training will be retained at the premises for inspection by the police and the licensing authority on request.

Children are not allowed at the bar or to be served alcohol or have alcohol bought for them.

Under 18's events will only go ahead on the approval of the Licensing Department at Birmingham Central (Licensing Team)

Children will not be permitted on the premises after 8pm Sunday - Thursday and 7pm Friday - Saturday, unless the event has a specific under 18 event, or the children are with an adult and they are sitting down for a plated meal.

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

Following an expedited Review, Licensing Sub Committee A resolved on Monday 5th June 2023 to modify the conditions of the licence to add the following conditions:

From 21.00hrs all customers/artists/DJs to be searched on entry. This search to include metal detection. No search means no entry

From 21.00hrs premises to operate an ID scanner. All customers will be required to provide ID to satisfy the scanning requirement. No ID or ID not accepted then no entry

All staff will be trained in (crime) scene management. This training will be documented and signed by the trainer and trainee. These training records to be made immediately available to any of the responsible authorities on request

The premises security risk assessment for deployment and numbers will be made available to any of the responsible authorities immediately on request

All door staff to wear either a hi- visibility coat, jacket or tabard

The premises to ensure that door staff will wear body cams. There will be a minimum of 50% of door staff on duty who wear a body cam. These cameras will record throughout the tour of duty with images & audio, be downloadable and be made available to West Midlands Police on request. Images will be kept for a minimum of 31 days

Door staff to sign on and off duty. Each entry will include their full SIA licence number. This documentation to be made immediately available to any of the responsible authorities on request and kept on the premises for a minimum of 2 months

Premises to keep a profile of all door staff to include a copy of their SIA licence, photographic ID (or if photographic is not available then a copy of a utility bill, no older than 3 months.) These profiles to be kept on the premises for a minimum of 2 months after the last shift

The premises will have a staff member on duty that is first aid trained

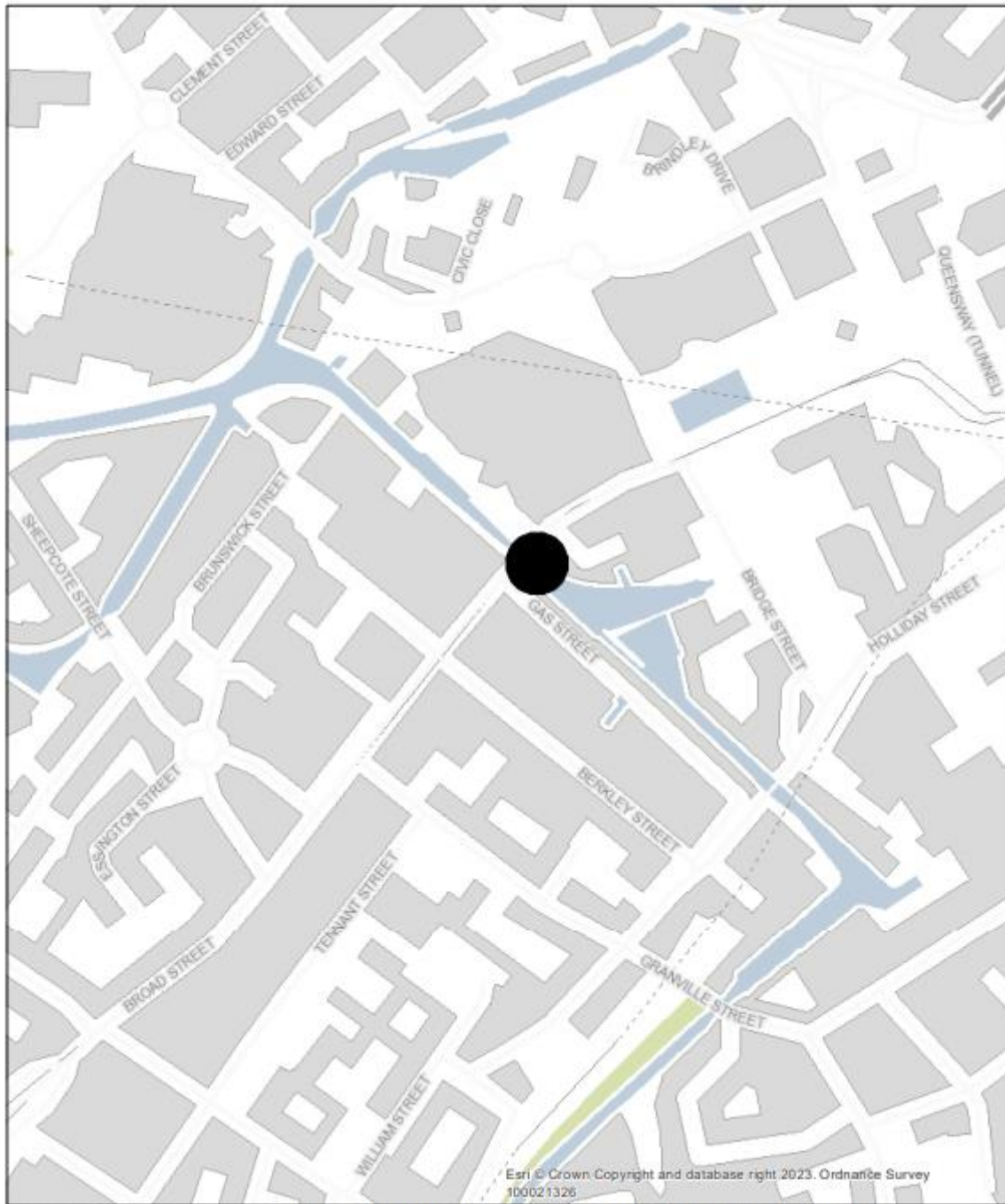
The premises will have a bleed kit available on site

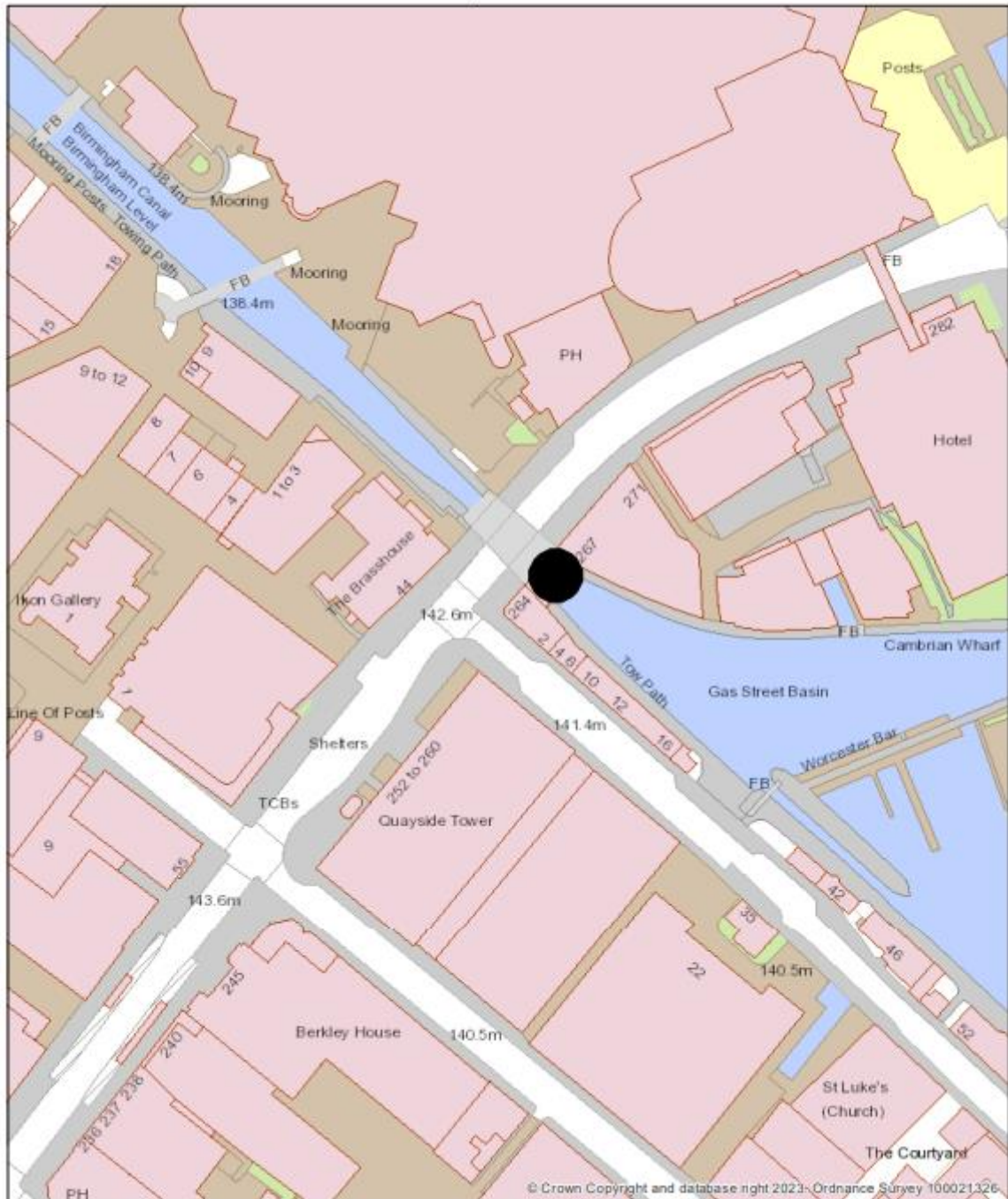
Premises to risk assess the smoking area to minimise the risk of illicit items passed in by persons outside the venue. This risk assessment to be made available to any of the responsible authorities on request

CCTV will be updated to the recommendation of West Midlands Police Central Licensing Team

Annex 4 – Plans

The plan of the premises with reference number 85324 which is retained from the public register kept by Birmingham City Council available free of charge for inspection . Please contact: Licensing PO BOX 17831 Birmingham B2 2HJ or email Licensing@birmingham.gov.uk





O Bar Bundle

Pages 3 - 4 DPS CV

Pages 6 - 11 Scanner Report from 06.10.23

Pages 13 – 18 Scanner Report from 07.10.23

Pages 20 – 23 Average Age of Customer Page

DPS CV

Employment History

Bar Manager – The Gin Vault

(March 2021- Present)

- Hiring staff
- Cashing up the tills
- Ordering stock
- Staff rotas
- Liaising with clients
- Managing advertisement
- Serving customers
- Setting targets

Assistant Bar Manager– Obar Birmingham

(March 2021-Present)

- Cashing up the till
- Serving customers
- Delegating tasks

Supervisor – Coyote Ugly Birmingham

(October 2019 –March 2021)

- Responsible for staff well-being.
- Opening and closing the bar including restocking and cleaning
- Serving customers food and beverages
- Being FOH greeting customers and organising bookings
- First aid trained.

Sales Account Executive – IMG (Industrial Maintenance Group)

(September 2018 – January 2019)

- Building relationship with clients
- Provide excellent customer service.
- Meeting client's needs
- Liaising with hotels to provide the best maintenance products.

Team Member – Clarks

(May 2017 – September 2017)

- Greeting customers
- Cash handling on the till
- Working in fast paced environment

- Competitive at making large sales.

Waitress/ Bar staff/ Hotel work – Chilli Buffet/ Travellers Inn
(August 2014 – September 2017)

- Cash handling
- FOH duties
- Serving and greeting customers
- Supervising shifts
- Closing the shift at the end of the day

Teaching Assistant- Cradley Heath Primary School
(July 2016)

- Interacting with staff and young children
- Providing help towards the daily tasks
- Using initiative in demanding situations

Education

University of East London
(2015 – 2018)

Awarded BA Hons Degree (2nd Class)

PerryFields Sixth Form
(2013-2015)

A-levels:

Art– C, Dance – A*, Business Studies – C, Forensic Science - B

PerryFields High School
(2008 – 2013)

English – B, Maths B, Science -B, ICT – A, Religious Studies – C,
 Art- A*, Spanish – C, Dance – A*,

Scanner Report 06.10.2023

We noticed you haven't entered any sales data for this day.

[Click here to enter your sales for the day.](#)

Call us at 1-877-778-9798 if you need any help.

Total Scans**205**

Unique Patrons**203**

Flags Shown**0**

Fake IDs**0**

Analytics Report

Patron Snapshot

Average Patrons



Male Patrons: 85
Male Percentage: 41%
Age: 27.71
Travelled: 16.91 km



Female Patrons: 118
Female Percentage: 58%
Age: 26.00
Travelled: 13.19 km

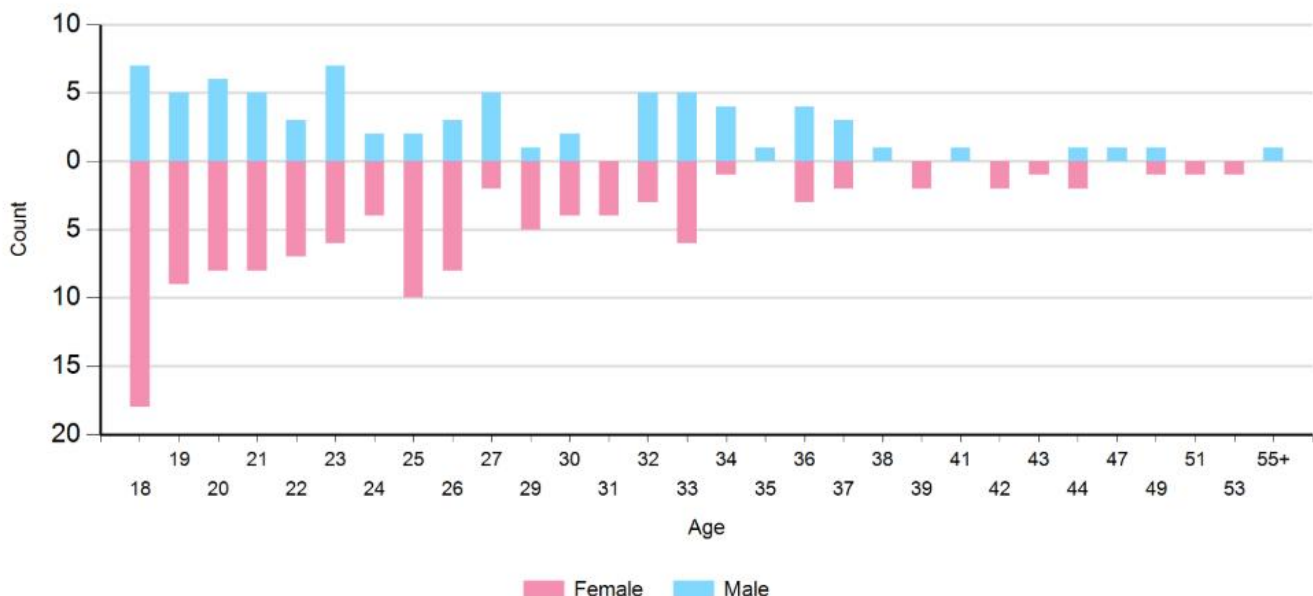
Patron Types

Members: 5
Guestlist: 0
Repeat Patrons: 27
Out-of-Town: 36
Birthday: 12
First Time Visit Within Data Retention Period: 175

New Entries

New Members: 0
New Bans: 0

Patron Age & Gender Distribution



Security Snapshot

Alerts: 4

Flags Shown: 0

Accepted: 0 Denied: 0

Fake ID: 0

Accepted: 0 Denied: 0

Double Scan: 2

Accepted: 1 Denied: 1

Expired: 2

Accepted: 2 Denied: 0

Underage: 0

Accepted: 0 Denied: 0

Notifications Sent: 0

Fire Inspection: 0

Police Inspection: 0

Liquor Inspection: 0

Task Force Inspection: 0

Fight: 0

Custom: 0

My Flagged Patrons

Current Flags: 3

Flags Expiring Within 30 Days: 0

Avg Public Flag Duration: 366 days

Internal(Public) Flags: 1

Public Flags: 2

Flagged Males: 3

Average Re-entry Attempts: 0.00

Flagged Females: 0

Average Re-entry Attempts: 0.00

Since using PatronScan, my Flagged Patrons have tried to enter my venue 0 times.

Venue Performance Snapshot

Key Drivers

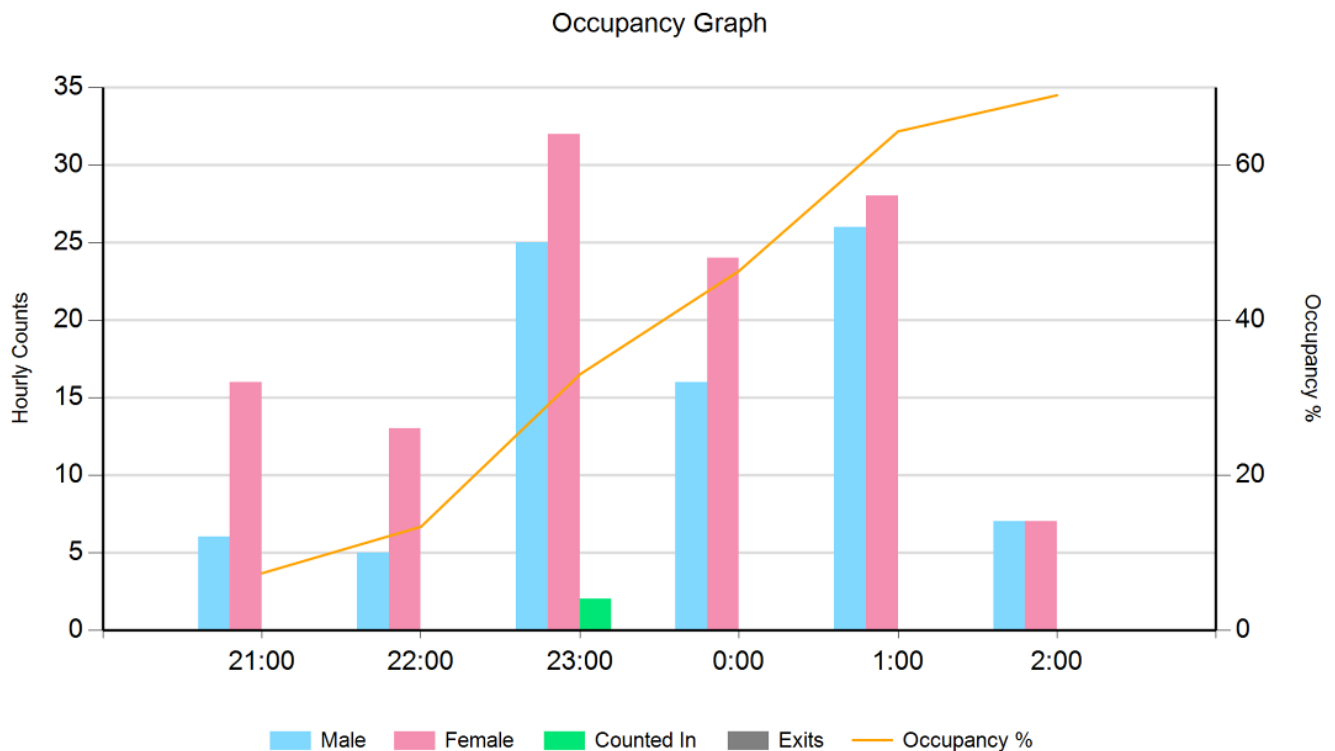
Venue Capacity: 300

Peak Occupancy: 69%

Time of Peak Occupancy: 2:30 AM

Occupancy at Shutdown: 69%

Filling Capacity: 68%



Postal Code Demographics

M = Male F = Female Visitors = Number of patrons that visited your venue from this postal code

Postal Code Demographics

Scanner Report 07.10.2023

We noticed you haven't entered any sales data for this day.

[Click here to enter your sales for the day.](#)

Call us at 1-877-778-9798 if you need any help.

Total Scans**318**

Unique Patrons**318**

Analytics Report

Flags Shown**0**

Fake IDs**0**

Patron Snapshot

Average Patrons



Male Patrons: 179
Male Percentage: 56%
Age: 28.56
Travelled: 13.82 km



Female Patrons: 139
Female Percentage: 43%
Age: 25.32
Travelled: 15.70 km

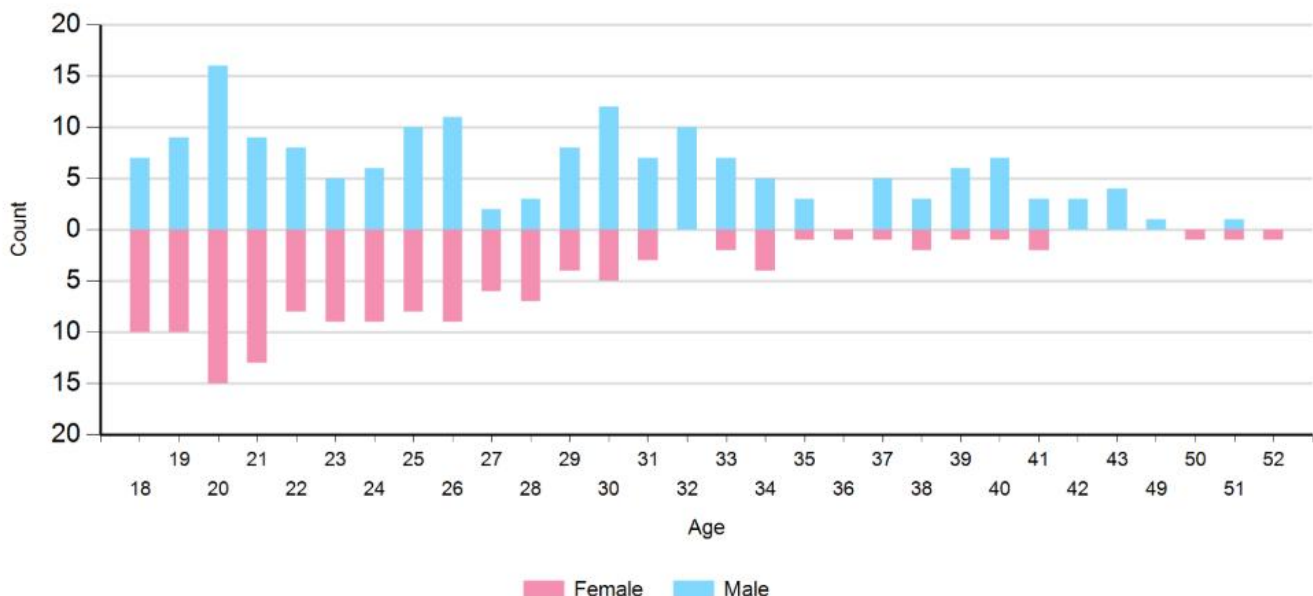
Patron Types

Members: 7
Guestlist: 0
Repeat Patrons: 24
Out-of-Town: 54
Birthday: 15
First Time Visit Within Data Retention Period: 294

New Entries

New Members: 1
New Bans: 0

Patron Age & Gender Distribution



Security Snapshot

Alerts: 6

Flags Shown: 0

Accepted: 0 Denied: 0

Fake ID: 0

Accepted: 0 Denied: 0

Double Scan: 0

Accepted: 0 Denied: 0

Expired: 5

Accepted: 5 Denied: 0

Underage: 1

Accepted: 1 Denied: 0

Notifications Sent: 0

Fire Inspection: 0

Police Inspection: 0

Liquor Inspection: 0

Task Force Inspection: 0

Fight: 0

Custom: 0

My Flagged Patrons

Current Flags: 3

Flags Expiring Within 30 Days: 0

Avg Public Flag Duration: 366 days

Internal(Public) Flags: 1

Public Flags: 2

Flagged Males: 3

Average Re-entry Attempts: 0.00

Flagged Females: 0

Average Re-entry Attempts: 0.00

Since using PatronScan, my Flagged Patrons have tried to enter my venue 0 times.

Venue Performance Snapshot

Key Drivers

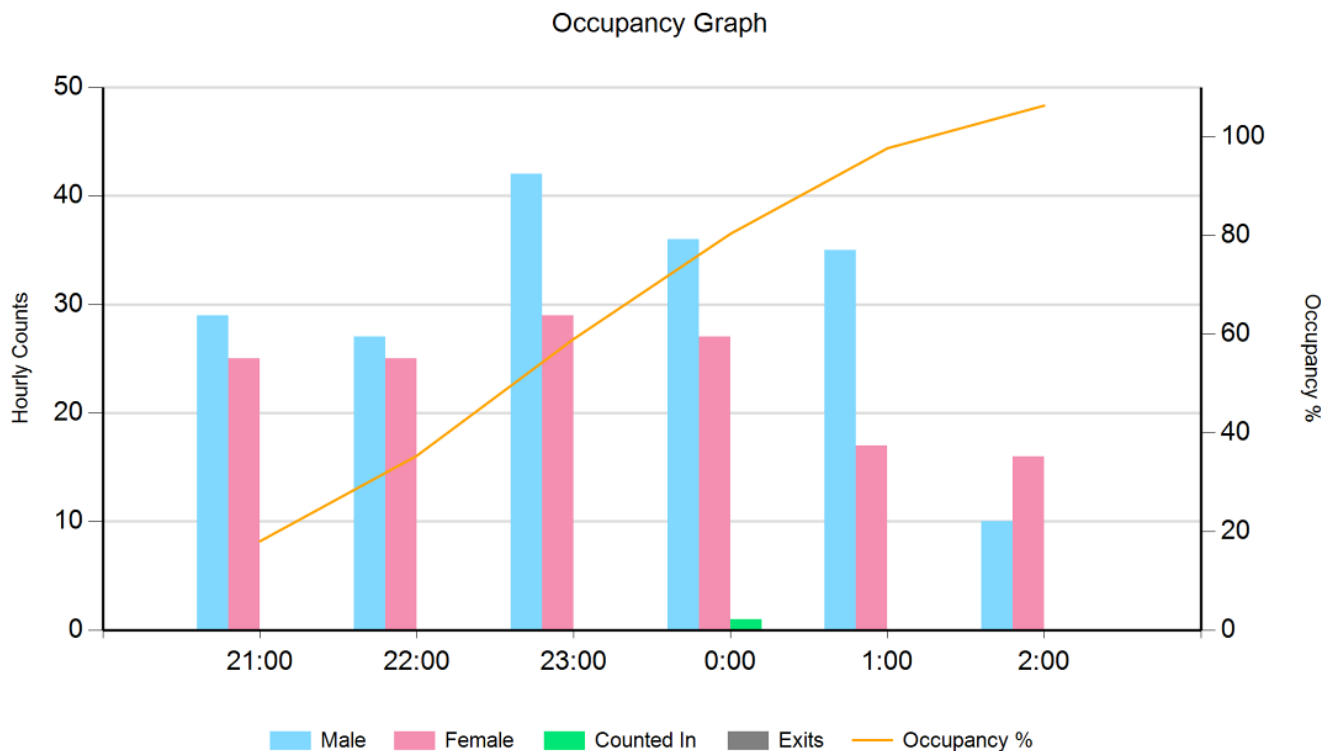
Venue Capacity: 300

Peak Occupancy: 106%

Time of Peak Occupancy: 2:42 AM

Occupancy at Shutdown: 106%

Filling Capacity: 106%



Postal Code Demographics

M = Male F = Female Visitors = Number of patrons that visited your venue from this postal code

Postal Code Demographics

Average Age of Customer

Ages taken from ID scanned

31-Aug	01-Sep	02-Sep	03-Sep
19	25	24	48
19	23	24	48
19	19	33	25
23	42	39	29
22	32	36	23
18	34	22	20
18	28	22	50
18	33	19	30
18	24	22	21
18	52	44	21
18	21	33	
29	21	34	
18	32	33	
18	25	28	
18	24	23	
19	18	28	
19	19	25	
19	33	26	
24	22	29	
27	51	29	
19	25	27	
19	29	27	
28	31	20	
22	22	47	
31	27	40	
25	38	41	
26	32	36	
31	31	28	
28	31	31	
28	22	32	
26	25	22	
25	21	19	
28	21	25	
22	41	23	
22	32	26	
24	19	51	
21	19	47	
24	30	18	
24	28	20	
27	28	19	
31	31	19	
26	34	19	
28	23	19	
46	40	34	
21	41	22	
26	34	22	
27	36	40	

31-Aug	01-Sep	02-Sep
22	24	25
47	18	21
19	19	21
52	24	21
30	29	21
19	33	42
19	22	37
33	30	20
31	24	21
26	24	38
23	24	35
24	20	30
28	18	43
18	18	23
18	32	18
18	37	24
18	24	25
19	24	71
18	24	43
19	23	44
19	38	52
19	22	53
51	23	43
52	24	50
44	24	30
27	18	23
24	18	23
29	18	24
20	18	24
19	24	28
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22	18	18
24	18	65
24	18	45
21	18	39
21	19	57
21	19	34
21	23	49
32	22	28
49	22	27
28	22	36
30	23	56
30	36	23
29	27	23
35	34	20
29	33	20
47	19	19
19	19	19
22	33	18

31-Aug	01-Sep	02-Sep
30	32	19
25	42	26
19	25	18
18	24	25
19	44	19
47	24	25
	25	20
	22	24
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02-Sep

46
44
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36
34

Average Age

25.46

25.63

29.85

31.5



**West Midlands Police Evidence Bundle For The
Application To Vary The Premises Licence Of O Bar, 265
Broad Street Birmingham B1 2DS.**

Premises licence number 2621.

PAGE(S)	DOCUMENT(S)
1 to 6	Statement of Licensing Officer Chris Jones
7 to 10	Initial Expedited Review Decision Notice
11 to 13	Full Hearing Decision Notice
Plus	2 CCTV clip sent by Boxxed

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

Crime No. URN

Statement of Christopher Jones

Age if under 18 Over 18 (if over 18 insert "over 18")

Occupation Licensing Officer

This statement (consisting of 06 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature:  (witness)

Date: 15 October 23

Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

I am Licensing Officer 55410 Christopher Jones of the West Midlands Police currently based at Lloyd House. Police HQ. I am part of a team of officers that deal with all matters in relation to the Licensing Act 2003 within the area covered by Birmingham City Council.

I am making this statement regarding a variation application received by West Midlands Police on behalf of City Leisure Entertainment Limited who are the premises licence holders for O Bar, 265 Broad Street, Birmingham. B1 2DS. Premises licence number 2621.

The application seeks to remove an operating condition from the premises licence. The condition which the applicant is seeking to remove is; 'From 21.00hrs premises to operate an ID scanner. All customers will be required to provide ID to satisfy the scanning requirement. No ID or ID not accepted then no entry'

The applicant is seeking to amend the condition with the following; "From 21.00hrs premises to operate an ID scanner. All customers who appear to be under 25 will be required to provide ID to satisfy the scanning requirement. In relation to these customers, no ID, or ID not accepted, then no entry."

The current ID scanner condition was imposed by a licensing sub-committee at the full hearing on 5th June 2023 after an expedited review was submitted by West Midlands Police on 9th May 2023.

The expedited review was requested following 2 section 18 woundings at the premises on Sunday 7th May at approximately 2am. Both victims were members of door staff and received their injuries, while dealing with a disorder inside the premises. The injuries were stab wounds.

West Midlands Police submitted the expedited review paperwork, via email on 9th May 2023. The meeting in front of the Licensing Sub-Committee was set for 11th May 2023. Prior to this meeting the premises requested a meeting with the police licensing team to discuss the situation and to try and establish an agreed way forward.

Signature



Signature witnessed by

03/2016

OFFICIAL – (when complete)

Crime No. URN

Statement of Christopher Jones

I attended a meeting at the premises; a representative from the premises licence holder's were present, together with their licensing consultant and the DPS of the premises. After a discussion a possible agreed position was reached with all parties, for the promotion of the licensing objectives.

I left the premises to discuss the proposals between themselves and take advice from their licensing consultant. A short time later I was contacted by the premises licensing consultant who informed that all the proposed conditions had been agreed. (One of which, the premises are now seeking to remove.)

This was very unusual as I cannot remember attending an expedited review meeting being in an agreed position with the premises.

At the meeting on 11th May 2023 the licensing sub-committee took the decision to suspend the premises licence until the premises had all the agreed operating conditions in place which, would promote the licensing objectives and negate the concerns of West Midlands Police.

The licensing sub-committee noted in their decision notice for the interim steps:

'Overall, the Police felt confident in the premises' ability to uphold the licensing objectives provided the new conditions were added to the licence. It was therefore the Police's recommendation that the premises licence should be suspended in order to allow sufficient time for the conditions to be implemented, but once this had been done, the premises could reopen and resume trading in advance of the summary review hearing.'

'The consultant confirmed that both the director of the licence holder company and the DPS were happy to agree to all the proposed conditions, and would not ask for the suspension to be lifted until all measures were properly put in place and endorsed by the Police. The priority was ensuring that admission at the front door was secure; accordingly, an ID scanner and bodycam equipment had been ordered'

'Having heard all of the evidence, the Members were confident that the course proposed by the Police was satisfactory and would ensure that the risk of any further serious crime and/or serious disorder was removed. In particular, the Members were reassured that the DPS understood her responsibilities and could be trusted to take proper management control of the premises in implementing the new measures.'

Only 2 days after the meeting, on 13th May I received an email from the premises licensing consultant who informed me that the venue intended to open at 16.00hrs that day.

The email informed that the management team had put in place all the agreed conditions and the DPS was confident she could open with all the agreed conditions and training in place. The email also stated that the DPS expected a visit from the local police team to ensure their compliance.

Signature

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2

Crime No. URN

Statement of Christopher Jones

The full hearing was heard on 5th June 2023 the agreed position was still unchanged between West Midlands Police and the premises.

The result of this hearing was that the licensing sub-committee agreed by imposing the interim steps on the premises licence permanently, it would ensure a robust regime, such that the licensing objectives could be upheld.

The licensing sub-committee noted in their decision notice:

'All in all, the Police were confident that those at the O Bar would ensure safe trading, and felt that it was unlikely that there would be any further serious crime or disorder incidents. The Police had found the premises to be "very proactive" in their plan to learn from the incident and to promote the licensing objectives in future. The Police recommendation was therefore that the Sub-Committee should simply adopt all of the conditions imposed at the interim steps hearing onto the licence permanently.'

'The premises confirmed via its agent that all of the required measures had been put in place without delay. The resumption of the operation from 13th May onwards had been satisfactory in all aspects, and trading had been smooth. The premises had been cooperating with the Police fully, and intended to continue to do so. The designated premises supervisor in particular was keen to ensure that everything was safe for staff and patrons alike.'

'The agent confirmed that the designated premises supervisor was a very capable and experienced person who had carefully implemented all the conditions; he remarked that the events of the 7th May 2023 had been a one-off incident which had simply been unfortunate. The premises would remain vigilant and was confident that it could trade safely.'

Although the hearing was an agreed position with both sides, there was still a 21 day right of appeal, which was not taken by the premises. By the end of the appeal time the premises would have been trading approximately 6 weeks with the new conditions in place.

West Midlands Police object to the removal / amendment of this condition, as per the application, as they believe it would undermine the licensing objectives, especially the prevention of crime and disorder.

This condition has only been in force on the premises since May 13th 23 approximately 4 months and was as a result of 2 serious assaults at the premises following a disorder in the venue. An alleged offender identified at the scene of the disorder and assaults at the time was detained by officers, but has since been negated as the offender by investigating officers.

The alleged offender identified on the night and arrested by officers was born in 1991 which would have

Signature 

Signature witnessed by

03/2016

OFFICIAL – (when complete)

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Crime No. URN

Statement of Christopher Jones

made him 31 years old at the time.

If the proposed variation was imposed onto the licence, it would mean that the alleged offender would not have had to provide ID and therefore would have remained unidentified if he had left the scene.

If an ID scanner had been in place on the evening it is highly possible that the correct offender would have been positively identified, through the police investigation and brought to justice. It may even have prevented the whole incident, knowing that they had been through an ID procedure and could easily identified.

It was only in May 23 that the licensing sub-committee noted in their decision 'The DPS had been willing to accept the additional conditions, and was particularly keen to prioritise safety.....The consultant confirmed that both the director of the licence holder company and the DPS were happy to agree to all the proposed conditions.....The priority was ensuring that admission at the front door was secure.....all at the premises had seen that more measures were needed, and she (The DPS) was keen to put these in place as per the police recommendations.'

This current application appears to be a shift by the premises in their stance at both the expedited review meeting and subsequent full hearing., It was only at the full hearing on 5th June 23 that the premises stated via their licensing consultant ' the resumption of the operation from 13th May onwards had been satisfactory in all aspects and trading had been smooth.'

The amendment of the ID scanner condition has no positive impact on the licensing objectives. In fact in the opinion of West Midlands Police the application weakens the promotion of public safety considerably, which in turn negatively impacts on the prevention of crime and disorder.

The sub-committee at the full hearing stated that the proposed conditions by the police were, reasonable, proportionate and targeted to address their concerns. It is reasonable to believe that the premises must have been of the same opinion as they were in an agreed position with the police, trading with the conditions already in place and did not take their option to appeal the full decision.

The inclusion of the current ID scanner condition was the key condition that West Midlands Police would have requested the licensing sub-committee to impose on to the premises licence if there was no agreed position with the premises. I am confident in saying that West Midlands Police would not have been in an agreed position with the premises, at the hearing, without them adopting this condition whether other proposals were agreed or not.

Since the full hearing in June 23 I have been contacted by the premises licensing consultant asking if West Midlands Police would consider amending / removing the ID scanner condition. He informed that the

Signature

Signature witnessed by

03/2016

Crime No. URN

Statement of Christopher Jones

premises had requested he contacted the police as they are turning away groups of people; as perhaps 2 out of 6 may not have ID and then all don't go into the venue. He also said that the premises state they attract an older crowd who don't all carry ID and therefore they are going elsewhere.

He was advised that West Midlands Police would not support the removal or amendment of the condition.

The weakening of the current ID scanner condition, which was deemed appropriate and proportionate on 5th June 23 does nothing for the promotion of the licensing objectives. However the rationale for this application is clear, it is a commercial decision by the applicant, not for the promotion of the licensing objectives and not for the safety of the staff or customers.

West Midlands Police would also question the fact that the premises attract 'an older crowd' the premises CCTV from the original incident on 7th May 23 appears to contradict this. It shows mixed crowd of customers who appear to be predominately aged between late teens and mid to late twenties.

There are several premises that West Midlands Police have unfortunately had to enforce against for various disorders, assaults, woundings and sexual offences who now have a similar ID scanner condition to O Bar. From experience West Midlands Police find the inclusion of an ID scanner, as per the current licence condition an extremely effective and efficient tool for the promotion of the licensing objectives. It dramatically reduces the number of incidents / crimes in the venues where they are installed, allowing the venue to continue to trade in a safe manner for both customers and staff.

West Midlands Police also wish to bring to the attention of the Licensing Sub-committee the fact that the DPS (who was in place at the initial incident) has recently removed herself from the premises licence.

West Midlands Police believe this is relevant, as in both the initial expedited review meeting and the full hearing there was a lot of weight put on the experience and competency of the DPS.

The sub-committee noted in the initial meeting on 11th May 23:

'The Members noted that the proposals did not include the removal of the DPS. This was somewhat unusual for a very serious incident such as a double stabbing. In response to questions, the Police confirmed that they had confidence in the O Bar management, as the DPS had been in place for some time. The Police were satisfied that the events of the 7th May had been a one-off, and considered that the DPS had done all she could to engage with the Police during the discussions.'

'Members were reassured that the DPS understood her responsibilities and could be trusted to take proper management control of the premises in implementing the new measures.'

Signature 

Signature witnessed by

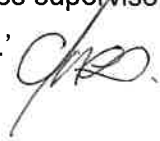
03/2016

Crime No. URN

Statement of Christopher Jones

In the full hearing on the 5th June 23 the sub-committee note of the now previous DPS:

'The agent confirmed that the designated premises supervisor was a very capable and experienced person who had carefully implemented all the conditions.'



Signature

Signature witnessed by

03/2016

Page 85 of 92
OFFICIAL – (when complete)

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BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE - A

THURSDAY 11 MAY 2023

O BAR, 265 BROAD STREET, LADYWOOD, BIRMINGHAM B1 2DS

That having considered the application made and certificate issued by a Superintendent of West Midlands Police under section 53A of the Licensing Act 2003 for an expedited review of the premises licence held by City Leisure Entertainment Limited in respect of O Bar, 265 Broad Street, Ladywood, Birmingham B1 2DS, this Sub-Committee hereby determines:

1. That the conditions of the licence shall be modified by adopting all those conditions which were agreed between the premises licence holder and West Midlands Police in advance of the meeting
2. That the licence be suspended pending the implementation of these agreed conditions to the satisfaction of West Midlands Police

The conditions which were agreed between the premises licence holder and West Midlands Police in advance of the meeting are as follows:

- From 21.00hrs all customers/artists/DJs to be searched on entry. This search to include metal detection. No search means no entry
- From 21.00hrs premises to operate an ID scanner. All customers will be required to provide ID to satisfy the scanning requirement. No ID or ID not accepted then no entry
- All staff will be trained in (crime) scene management. This training will be documented and signed by the trainer and trainee. These training records to be made immediately available to any of the responsible authorities on request
- The premises security risk assessment for deployment and numbers will be made available to any of the responsible authorities immediately on request
- All door staff to wear either a hi-visibility coat, jacket or tabard
- The premises to ensure that door staff will wear body cams. There will be a minimum of 50% of door staff on duty who wear a body cam. These cameras will record throughout the tour of duty with images & audio, be downloadable and be made available to West Midlands Police on request. Images will be kept for a minimum of 31 days
- Door staff to sign on and off duty. Each entry will include their full SIA licence number. This documentation to be made immediately available to any of the responsible authorities on request and kept on the premises for a minimum of 2 months
- Premises to keep a profile of all door staff to include a copy of their SIA licence, photographic ID (or if photographic is not available then a copy of a utility bill, no older than 3 months.) These profiles to be kept on the premises for a minimum of 2 months after the last shift
- The premises will have a staff member on duty that is first aid trained
- The premises will have a bleed kit available on site

- Premises to risk assess the smoking area to minimise the risk of illicit items passed in by persons outside the venue. This risk assessment to be made available to any of the responsible authorities on request
- CCTV will be updated to the recommendation of West Midlands Police Central Licensing Team

Upon the implementation of these agreed conditions to the satisfaction of West Midlands Police, the suspension shall be lifted and the premises permitted to trade pending the review of the licence, such a review to be held within 28 days of receiving the Superintendent's application.

The Sub-Committee's reasons for imposing the two interim steps are due to the concerns which were expressed by West Midlands Police in relation to matters pertaining to serious crime and/or serious disorder, which had come to light as outlined in the Superintendent's certificate and application. The Police were represented at the meeting. A director of the licence holder company also attended the meeting, accompanied by the designated premises supervisor [DPS]. Those from the premises were represented by their consultant.

The Sub-Committee accepted the advice of the Police that the risks of further serious crime and/or serious disorder could be managed satisfactorily via the adoption of a suite of new conditions, which had been agreed between the parties in advance of the meeting. The Police did not have concerns about the style of management at the O Bar, or the management personnel working there; indeed, the Police remarked several times during the meeting that they had found those at the premises to be cooperative and keen to ensure the safety of all.

The meeting was conducted in private session after the Sub-Committee considered an application made by West Midlands Police under regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005. The Police explained that to view the CCTV evidence in public could prejudice an ongoing criminal investigation. The Police therefore asked for the Sub-Committee to go into private session for the meeting. The consultant acting for the premises did not object to this course.

The meeting therefore went into private session and Members heard the submissions of West Midlands Police, namely that the certificate, which had been issued by a Superintendent under s53A(1)(b) of the Act, related to an allegation of serious crime and/or serious disorder which had happened at the premises in the early hours of Sunday 7th May 2023. The Police stated that they did not use the s53 power lightly; the Superintendent had signed the certificate to bring the matter before the Sub-Committee as it had been a very serious incident involving the use of a weapon(s).

The Police summarised the investigation thus far – exactly as detailed in the Report. The O Bar was located in the main nightlife district of the city. A double stabbing had happened at the O Bar. A criminal investigation was under way. The incident had been the subject of two crime reports for wounding, per s18 of the Offences Against the Person Act 1861. The Police reminded the Sub-Committee that such offences are serious crimes which on conviction attract a maximum sentence of life imprisonment. The weapon was thought to have been a knife, but no weapon(s) had been located.

CCTV from inside the premises was played to the Sub-Committee. Police bodycam footage (showing the aftermath of the incident, and the first aid attempts) was also played. It was the advice of the Police that interim steps were required in order to

deal with the causes of the serious crime and/or serious disorder; to that end, discussions had been held between the Police and those from the O Bar.

The Police had been pleased to observe that the premises' management had been highly cooperative during these discussions. The Police remarked that usually in such matters, they would find that a licence holder hindered or obstructed discussions, which resulted in a disputed position; that was not the case here. In the instant matter, there was an agreed position. Those at the O Bar had engaged well with the criminal investigation, and also with the discussions regarding the modification of the licence. The DPS had been willing to accept the additional conditions, and was particularly keen to prioritise safety.

The Members noted that the proposals did not include the removal of the DPS. This was somewhat unusual for a very serious incident such as a double stabbing. In response to questions, the Police confirmed that they had confidence in the O Bar management, as the DPS had been in place for some time. The Police were satisfied that the events of the 7th May had been a one-off, and considered that the DPS had done all she could to engage with the Police during the discussions. The director of the licence holder company had also agreed to all the proposed conditions, and wanted the premises to be safe and well-managed.

Overall, the Police felt confident in the premises' ability to uphold the licensing objectives provided the new conditions were added to the licence. It was therefore the Police's recommendation that the premises licence should be suspended in order to allow sufficient time for the conditions to be implemented, but once this had been done, the premises could reopen and resume trading in advance of the summary review hearing.

The Sub-Committee then heard from the licence holder company, via its consultant. It appeared that on the night in question, some boisterous patrons had been removed by the premises' security staff, and in the course of the removal, the two wounding incidents had happened either outside the premises or on the way out. As soon as the incident had been noticed, the lights in the premises had been turned on, and first aid given to those involved. Nearby Police officers had also entered. The injured parties had been released from hospital, but those at the premises had not yet spoken to them.

The consultant confirmed that both the director of the licence holder company and the DPS were happy to agree to all the proposed conditions, and would not ask for the suspension to be lifted until all measures were properly put in place and endorsed by the Police. The priority was ensuring that admission at the front door was secure; accordingly, an ID scanner and bodycam equipment had been ordered. The consultant agreed with the Police that it had been a one-off incident; he considered that another DPS would not have made any difference. He noted that the premises' staff dealt with ejections well.

The Sub-Committee then heard from the DPS directly. She confirmed that the premises did operate a search policy at the door, and said that she had felt that the arrangements were sufficient as there had never been any incident with a knife. However, all at the premises had seen that more measures were needed, and she was keen to put these in place as per the Police recommendations.

Having heard all of the evidence, the Members were confident that the course proposed by the Police was satisfactory and would ensure that the risk of any further serious crime and/or serious disorder was removed. In particular, the

Members were reassured that the DPS understood her responsibilities and could be trusted to take proper management control of the premises in implementing the new measures.

Whilst deliberating, the Sub-Committee agreed with the Police that it would be possible for the premises to resume trading as soon as everything required by the new conditions was implemented. Both parties had anticipated that this could be done in advance of the full summary review hearing; the Sub-Committee felt that this inspired confidence that the premises would handle the implementation smoothly.

Whilst any incident where a weapon(s) had found its way into licensed premises was very serious, the Sub-Committee agreed with both parties that this was perhaps a one-off incident, and that the correct course was that which had been recommended by the Police. The Sub-Committee therefore resolved to modify the conditions and impose the suspension. This was both necessary and reasonable to address the immediate problems with the premises, namely the potential for further serious crime and/or serious disorder. It was not necessary to consider other steps such as the removal of the designated premises supervisor, as this individual and her management style were satisfactory to the Police.

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

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

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



BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A

MONDAY 5 JUNE 2023

O BAR, 265 BROAD STREET, LADYWOOD, BIRMINGHAM B1 2DS

That having reviewed the premises licence held under the Licensing Act 2003 by City Leisure Entertainment Limited in respect of O Bar, 265 Broad Street, Ladywood, Birmingham B1 2DS, following an application for an expedited review made on behalf of a Superintendent of West Midlands Police, following an application for an expedited review made on behalf of the Chief Officer of West Midlands Police, this Sub-Committee hereby determines that

1. The interim step of suspension of the licence, which had been lifted to permit trading from Saturday 13th May 2023 onwards, be formally confirmed as lifted
2. The conditions of the Licence be modified by the adoption of those conditions agreed between the premises licence holder and West Midlands Police which were imposed as interim steps [as detailed below]
3. The interim step of the modification of the licence by way of conditions agreed between the premises licence holder and West Midlands Police [as detailed below], shall be maintained pending the determination of any Appeal

The conditions of the Licence shall be modified as agreed between the premises and West Midlands Police in advance of the Interim Steps meeting, namely:

- From 21.00hrs all customers/artists/DJs to be searched on entry. This search to include metal detection. No search means no entry
- From 21.00hrs premises to operate an ID scanner. All customers will be required to provide ID to satisfy the scanning requirement. No ID or ID not accepted then no entry
- All staff will be trained in (crime) scene management. This training will be documented and signed by the trainer and trainee. These training records to be made immediately available to any of the responsible authorities on request
- The premises security risk assessment for deployment and numbers will be made available to any of the responsible authorities immediately on request
- All door staff to wear either a hi-visibility coat, jacket or tabard
- The premises to ensure that door staff will wear body cams. There will be a minimum of 50% of door staff on duty who wear a body cam. These cameras will record throughout the tour of duty with images & audio, be downloadable and be made available to West Midlands Police on request. Images will be kept for a minimum of 31 days
- Door staff to sign on and off duty. Each entry will include their full SIA licence number. This documentation to be made immediately available to any of the responsible authorities on request and kept on the premises for a minimum of 2 months
- Premises to keep a profile of all door staff to include a copy of their SIA licence, photographic ID (or if photographic is not available then a copy of a utility bill,

no older than 3 months.) These profiles to be kept on the premises for a minimum of 2 months after the last shift

- The premises will have a staff member on duty that is first aid trained
- The premises will have a bleed kit available on site
- Premises to risk assess the smoking area to minimise the risk of illicit items passed in by persons outside the venue. This risk assessment to be made available to any of the responsible authorities on request
- CCTV will be updated to the recommendation of West Midlands Police Central Licensing Team

The meeting was conducted in private session after the Sub-Committee considered an application made by West Midlands Police under regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005. The Police explained that to view the CCTV evidence in public could prejudice an ongoing criminal investigation. The Police therefore asked for the Sub-Committee to go into private session for the meeting. The consultant acting for the premises endorsed this course.

The meeting therefore went into private session and Members were shown the CCTV footage of the incident which had given rise to the application for an expedited Review of the licence. The Sub-Committee then heard the submissions of West Midlands Police, who confirmed that they had been advising the licence holder since the last meeting, had been to the venue to conduct inspections, and were satisfied with all aspects of the premises' implementation of the requirements. The premises had reopened and had been trading since Saturday 13th May 2023, without problems. The Police noted that the period in question had included four weekends and one Bank Holiday.

The Police view was that adopting the interim step conditions onto the licence (permanently) would ensure a robust regime, such that the licensing objectives could be upheld. The Police also observed that the management team was satisfactory, noting that the premises had volunteered its Incident Report and extra CCTV footage. Since the reopening, there had been no issues noted by the local teams policing the night-time economy area of Birmingham.

All in all, the Police were confident that those at the O Bar would ensure safe trading, and felt that it was unlikely that there would be any further serious crime or disorder incidents. The Police had found the premises to be "very proactive" in their plan to learn from the incident and to promote the licensing objectives in future. The Police recommendation was therefore that the Sub-Committee should simply adopt all of the conditions imposed at the interim steps hearing onto the licence permanently.

The premises confirmed via its agent that all of the required measures had been put in place without delay. The resumption of the operation from 13th May onwards had been satisfactory in all aspects, and trading had been smooth. The premises had been cooperating with the Police fully, and intended to continue to do so. The designated premises supervisor in particular was keen to ensure that everything was safe for staff and patrons alike.

The agent confirmed that the designated premises supervisor was a very capable and experienced person who had carefully implemented all the conditions; he remarked that the events of the 7th May 2023 had been a one-off incident which had simply been unfortunate. The premises would remain vigilant and was confident that it could trade safely. The designated premises supervisor, who also attended the meeting, then addressed the Sub-Committee personally, to confirm that she had made sure that all the staff understood what was required.

The Sub-Committee considered the modification of the conditions proposed by the Police to be reasonable, proportionate and targeted to address the concerns which had been raised by the Police in the certificate - in particular the likelihood of serious crime and/or serious disorder. The Sub-Committee was pleased to hear that safe trading had resumed at the venue, and considered that the management of the O Bar could be trusted to ensure the promotion of the licensing objectives.

In addition to the above conditions, those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will continue to 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 by the Home Office under s182 of the Act, the application and certificate issued by West Midlands Police under Section 53A of the 2003 Act, and the submissions made by the premises via its agent, and by West Midlands Police, at the hearing.

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

The determination of the Sub-Committee, save for the maintenance of the interim step conditions, does not have effect until the end of the twenty-one day period for appealing against the decision or, if the decision is appealed against, until the appeal is determined.