

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C
Report of:	Director of Regulation & Enforcement
Date of Meeting:	Wednesday 2nd August 2023
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	Levana, The Arcadian, 70 Hurst Street, Birmingham, B5 4TD
Ward affected:	Bordesley and Highgate
Contact Officer:	David Kennedy, Principal Licensing Officer, licensing@birmingham.gov.uk

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

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

3. Brief Summary of Report:
Review application received on 14 th June 2023 from West Midlands Police in respect of Levana, The Arcadian, 70 Hurst Street, Birmingham, B5 4TD.

4. Compliance Issues:
4.1 Consistency with relevant Council Policies, Plans or Strategies:
The report complies with the City Council's Statement of Licensing Policy and the Council's Corporate Plan to improve the standard of all licensed persons, premises and vehicles in the City.

5. Relevant background/chronology of key events:

West Midlands Police applied on 14th June 2023 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for Levana, The Arcadian, 70 Hurst Street, Birmingham, B5 4TD.

The Review application is attached. See Appendix 1.

The Premises Licence is attached at Appendix 2.

Site location plans are attached at Appendix 3.

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

The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -

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

6. List of background documents:

Review Application Form, Appendix 1
Copy of Premises Licence, Appendix 2
Site location plans, Appendix 3

7. Options available

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

Where the authority takes a step to modify conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure
that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
You may wish to keep a copy of the completed form for your records.

I Superintendent 0135 Hurst

(Insert name of applicant)

**apply for the review of a premises licence under section 51 / apply for the review of a club
premises certificate under section 87 of the Licensing Act 2003 for the premises described in
Part 1 below (delete as applicable)**

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Levana The Arcadian 70 Hurst Street	
Post town Birmingham	Post code (if known) B5 4TD
Name of premises licence holder or club holding club premises certificate (if known) True Leisure Ltd	
Number of premises licence or club premises certificate (if known) 276	

Part 2 - Applicant details

I am

Please tick ✓ yes

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

☐

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

☒

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

☐

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

Please tick ✓ yes

Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

☐

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

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address West Midlands Police Lloyd House Colmore Circus Birmingham B4 6NQ
Telephone number (if any)
E-mail address (optional)

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

- | | |
|---|---------------------------------|
| 1) the prevention of crime and disorder | Please tick one or more boxes ✓ |
| 2) public safety | x <input type="checkbox"/> |
| 3) the prevention of public nuisance | x <input type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |
| | x <input type="checkbox"/> |

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

Premises supplying under 18s alcohol.

Allowing under 18s entry to the premises.

Premises not following their premises licence conditions which have led to the licensing objectives of the prevention of crime & disorder, public safety and the protection of children from harm not being promoted.

Please provide as much information as possible to support the application (please read guidance note 3)

On Friday 2nd June 2023 a 15-year-old child (Child A) has been allowed entry into Levana Bar. Child A arrived with friends also aged under 18, at approximately 11.50pm.

All were allowed entry into the premises, in breach of licensing conditions imposed on the premises licence.

Child A has left the premises at approximately 03.00hrs. Later Child A has reported being a victim of a serious crime, after being in Levana Bar and becoming intoxicated whilst in the premises.

The offence did not take place within the premises.

West Midlands Police Licensing Team have had ongoing interactions with the premises for various concerns and issues including previous under 18s intoxicated in the premises.

West Midlands Police have applied the 'Four E' approach and have worked with the premises licence holder, but still find the premises operating in an unsatisfactory manner.

The Four E approach has consisted of:

- Engagement with the premises
- Explaining the concerns of West Midlands Police
- Encourage the premises to trade safely and in line with their operating conditions
- Enforcement through the Licensing legislation, when the other 'Es' have not resulted in the satisfactory operation of the premises to uphold the licensing objectives.

West Midlands Police are now at the point where there is nothing more that we can offer the premises and the conditions already imposed on the premises licence, if followed, should be sufficient in order for the premises to operate in a manner to uphold the licensing objectives.

I am aware of an email sent by the agent of the premises informing of actions taken by the premises post a meeting with West Midlands Police Licensing Team on Friday 9th June.

Due the seriousness of this incident, the fact the licensing team have had several previous interactions with the premises including under 18s being intoxicated in the venue and the fact the premises has continued to operate in an unsatisfactory manner, West Midlands Police feel there is no other option other than to bring this premises to the attention of a Licensing Sub-Committee as we have limited confidence in the management of the premises.

Statements, CCTV and other evidence will be supplied within the appropriate timescale for the hearing.

☐

Day Month Year

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

Please tick ✓ yes

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

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

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

Signature

.....0135.....

Date

.....13.10.23.....

Capacity

.....SUPERINTENDENT.....

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

West Midlands Police Licensing Team – (Chris Jones)
Lloyd House

Post town

Birmingham

Post Code

B4 6NQ

Telephone number (if any)

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

Notes for Guidance

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

Licensing Act 2003**Premises Licence**

Premises Licence Number	276
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Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description Levana, C101 – C103 The Arcadian Centre, Hurst Street, B5 4TD
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 Exhibition of a Film Performance of Live Music Playing of Recorded Music Performance of Dance
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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: New Years Eve: From the end of Permitted Hours on New Years Eve to the start of Permitted Hours on New Years Day 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	04:30	04:30
Sunday	23:00	04:30

Further Details:

Place:

Seasonal Variations: New Years Eve: From the end of Permitted Hours on New Years Eve to the start of Permitted Hours on New Years Day

Non-Standard Times:

Exhibition of a Film:

<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: New Years Eve: From the end of Permitted Hours on New Years Eve to the start of Permitted Hours on New Years Day

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: New Years Eve: From the end of Permitted Hours on New Years Eve to the start of Permitted Hours on New Years Day

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: New Years Eve: From the end of Permitted Hours on New Years Eve to the start of Permitted Hours on New Years Day

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: New Years Eve: From the end of Permitted Hours on New Years Eve to the start of Permitted Hours on New Years Day

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: New Years Eve: From the end of Permitted Hours on New Years Eve to the start of Permitted Hours on New Years Day

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

True Leisure Limited, C101-C103 The Arcadian Centre
Hurst Street, Birmingham, B5 4TD

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

04109021

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

Mr Manoochehr Esmaili

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: 10441

Issuing Authority: Birmingham City Council

Dated 03-03-2023

Shaid Yasser
Senior Licensing Officer
For Director of Regulation & Enforcement

Annex 1 – Mandatory Conditions

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

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

The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises – (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to – (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or (ii) drink as much alcohol as possible (whether within a time limit or otherwise); (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective; (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective; (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or 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.

The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendation made: (a) By the British Board of Film Classification (BBFC), where the film has been classified by that Board, or
(b) By the Licensing Authority where no classification certificate has been granted by the BBFC, or, where the licensing authority has notified the licence holder that section 20(3)(b) (s74(3)(b) for clubs) of the Licensing Act 2003 applies to the film.

Annex 2 – Conditions consistent with the Operating Schedule

The provision of regulated entertainment and late night refreshment to take place indoors only.

No adult entertainment or services are permitted on the premises.

The sale of alcohol will cease thirty minutes prior to the closure of the premises.

Door supervisors stationed outside the frontage of the premises will wear high visibility jackets/coats and will have their SIA badge held in a clear arm sleeve holder. Door supervisors inside the premises will wear hi visibility waist coats, again with the SIA badge positioned in a clear arm sleeve holder in visible view to the public.

The premise shall maintain staff profiles for all door staff working at the premises, and for any door staff that have worked on the premises in the last three months. The door staff profile will consist of identification for the member of staff which shall include the following: a) A copy of his/her SIA Badge. b) Passport or driving licence. If the proof of identification is anything other than the photo driving licence, then the member of staff will need proof of address, which must be a utility bill and to be dated within the last six months.

All training records for all staff, in regard to drunkenness and the protection from harm for children to be maintained, and to be available to any Responsible Authority.

The premise must operate an incident book and record all incidents that occur inside and immediately outside the premises. Incident book can be inspected at any time upon request. The incident book to be available for inspection by any regulatory body.

Regulated entertainment shall be provided through a limiter, the specifications, installation and setting of which shall be agreed in advance.

The Premises will document a noise management plan which will be agreed with West Midlands Police. This document will be attached as an annex to the licence and can be reviewed if noise complaints persist.

The Premises Licence Holder shall ensure the conduct of patrons at the smoking area provided to the premises will be supervised and monitored to minimise potential nuisance.

The official occupancy level of the premises will be determined by a Fire Risk Assessment and agreed with West Midland Fire Service.

The premises will operate an appropriate age challenge scheme, to be agreed with the licensing team at Steelhouse Lane. Any refusals (entry or service) under this scheme will be documented and be made available upon request from any Responsible Authority.

* A challenge 25 policy will be operated at the premises. Notices informing customers of the policy will be displayed within the premises. Staff shall be trained on this policy and will be regularly reminded and trained to enforce the challenge 25 policy.

* A refusals log will be maintained at the premises. The log will be made immediately available to members of the responsible authorities on request.

* CCTV that is approved by West Midlands police and able to capture images particularly outside under conditions of low lighting will be fitted in the premises. Images will be retained for a period of at least 31 days and will be made available to any of the responsible authorities to view or copies produced on request. If for any reason the CCTV hard drive needs to be replaced the previous / old hard drive will be kept on site for a minimum of 31 days and made immediately available to any of the responsible authorities on request. The CCTV will be checked each day to ensure that it is working prior to licensable activity taking place. The date, time, identity of the checker and the result of the check will be recorded in the premises incident log.

* All staff will receive training in regard to the Licensing Act 2003 and the premises operating conditions. Staff will also receive training in regards to the premises vulnerability policy. All training will be documented and signed by both the trainer and trainee. No staff will work at the premises until this training has been completed and the required refreshments have been completed.

* Refresher training should take place as a minimum once a year. Training records to be made available to any of the responsible authorities on request.* The premises will operate a vulnerability policy which will be made available to any of the responsible authorities on request. As part of this policy the premises will have a safe space for vulnerable people.* When the premises is trading at least one of the members of staff on

duty will be first aid trained and they will take the lead in any medical incidents or where the incident is vulnerability.

- * The premises will operate a search policy which will be made available to responsible authorities upon request.

- * The premises will operate a drugs policy which will be made available to any of the responsible authorities on request.

- * The premises will operate a dispersal policy which will be made available to any of the responsible authorities on request.

- * From 9pm, Monday to Sunday, the licence holder shall maintain and operate an ID Scan to all persons entering the premises whenever licensable activities are being carried on. The premises is to adopt and display a clear notice to the effect that there is a strict policy of NO ID, NO ENTRY.

- * The premises will deploy door staff when trading. Door staff will sign on and off duty. The premises will keep a profile of all door staff which will include a copy of their SIA licence and photographic ID. (If photographic ID is not available then a utility bill no older than 3 months will be acceptable.) The signing in & out sheets and profiles will be kept on the premises for a minimum of 3 months and made immediately available to any of the responsible authorities on request.

- * Door staff will wear a fluorescent coat, jacket or waistcoat while on duty at the premises. Door staff will remain on duty until all the customers have dispersed and this will form part of the premises dispersal plan.

- * The numbers of door staff will be risk assessed by the premises. This risk assessment will be made available to any of the responsible authorities immediately on request.

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

Persons under the age of 18 are not permitted to remain on the premises after 20:00 hours. Persons under the age of 16 are not permitted to remain on the premises after 19:00 on a Friday or Saturday.

Annex 4 – Plans

The plan of the premises with reference number 162096 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



