

**BIRMINGHAM CITY COUNCIL**  
**LICENSING SUB-COMMITTEE B**

**Tuesday 12 December 2023 at**  
**1130 hours as an On-Line Meeting,**  
**Microsoft Teams**

**A G E N D A**

**1 NOTICE OF RECORDING/WEBCAST**

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

**2 DECLARATIONS OF INTERESTS**

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

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

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

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

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

**3 APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

**Attached**

**4 RE: FREDERICKS TRADING AS ACAPELLA, REGENT HOUSE, FREDERICK STREET, JEWELLERY QUARER, BIRMINGHAM, B1 3HR - LICENSING ACT 2003 AS AMENDED BY THE VIOLENT CRIME REDUCTION ACT 2006 - APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENCE: CONSIDERATION OF INTERIM STEPS**

N.B. Application scheduled to be heard at 1130 hours.

Documents submitted:

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

West Midlands Police have applied for an expedited review of the premises licence in respect of Fredericks trading as Acapella, Regent House, Frederick Street, Jewellery Quarter, Birmingham, B1 3HR

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

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

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

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

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

## **5 OTHER URGENT BUSINESS**

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

# West Midlands Police

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

I hereby certify that in my opinion the premises described below are associated with serious crime and disorder

**Premises: Fredericks Trading as Acapella,**

**Premise Licence Number: 3536**

**Premise Licence Holder: Mr Seyhmus Ozdemir.**

**Designated Premise Supervisor: Mr Seyhmus Ozdemir.**

**I am a Superintendent in West Midlands Police.**

I am giving this certificate because I am in the opinion that the procedures under the Licensing Act are inappropriate in this case because the standard review procedures are thought to be inappropriate due to the seriousness of the crime, and the serious management failings of the premises concerned.

The actions of the management and staff involved in the premises where this incident has occurred casts serious doubt on their abilities to promote the licensing objectives.

In this incident a person has entered the premises which were open and conducting licensable activity in possession of a handgun. The person has then produced the firearm and it has been discharged causing a person a wound to his leg. The person has then left the premises. The premises have not reported the incident to the police and have cleared the scene up prior to police attendance.

Wounding with intent to cause grievous bodily harm is a serious crime by virtue of the maximum sentence being up to life imprisonment if a person is found guilty of this offence and warrants the use of this power. The offence has been committed in the presence of staff at the premises who are in a position of trust in the premises with a duty to promote the safety of the public and to prevent crime and disorder which they have failed to do.

I have considered the use of the normal review procedure but I do not feel this would be appropriate in these circumstances due to the above reasons, and the fact that to maintain the licensing objective of preventing crime and disorder the normal review procedure would not be sufficient.

The severity of the incident is a matter that needs to be brought to the attention of the Licensing Committee immediately.

I am conscious of the guidance on the use of "Expedited Reviews" and given the emphasis that is given to use of this power to tackle serious crime and disorder, my feelings that this process is deemed appropriate are further enforced.

Signed: *D. Twyford* Superintendent 9700. 11/12/23



## PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

### I - Superintendent David Twyford

**(on behalf of) the chief officer of Police for the West Midlands Police area, apply for the review of a premises licence under section 53A of the Licensing Act 2003**

1. Premises details: Fredericks trading as Acapella.

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

**Regent House,  
Frederick Street,  
Jewellery Quarter,  
Post Town: Birmingham**

Post Code (if known): **B1 3HR.**

2. Premises Licence details:

Name of premise licence holder (if known):

**Mr Seyhmus Ozdemir.**

Number of premise licence (if known):

**3536**

3. Certificate under section 53A (1)(B) of the Licensing Act 2003 (Please read guidance note 1)

I confirm that this is a certificate has been given by a senior member of the police force for the police area above that in his/her opinion the above premises are associated with serious crime or serious disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

x

4. Details of association of the above premises with serious crime, serious disorder or both:  
(Please read guidance note 2)

Acapella is a licensed premises situated at Regent House, Frederick Street. Jewellery Quarter, Birmingham. B1 3HR. The premises license holder and designated premises supervisor is Mr Seyhmus Ozdemir.

The premises is licensed to sell alcohol for consumption on the premises between the hours of 0800 and 0245 on Saturdays.

At approximately 0300 hours Sunday 10<sup>th</sup> December 2023 the premises were open with persons in the premises.

At this time an incident occurred whereby a handgun was produced and has been discharged. This has caused a wound to a persons leg. All the persons have left the premises a short time later. At no time have the premises contacted the police in relation to the incident. The premises have also cleaned the area of the incident prior to police attendance.

This matter is a wounding with intent to cause grievous bodily harm contrary to section 18 Offences Against The Persons Act 1861 which is a serious crime by virtue of the maximum sentence on conviction being life imprisonment.

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

A firearm has been in the premises and discharged showing current control measures at the premises to be inadequate and ineffective.

West Midlands Police have no confidence in the management of the premises. The lack of confidence in the management is compounded by the premises failing to report the matter to the police and cleaning up the scene of the incident hampering police enquiries into the matter.

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

**Signature of applicant:** *D. J. WYFORD*

**Date:** 11.12.23.

**Rank/Capacity:** Superintendent 9700

**Contact details for matters concerning this application:** BW Licensing

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

**Telephone Number(s):** 0121 626 6099

**E-mail - bw\_licensing@west-midlands.police.uk**

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

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

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

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

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

**LICENSING ACT 2003**

**PREMISES LICENCE**

**Premises Licence Number:**

3536 / 4

**Part 1 - Premises details:**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b> Fredericks Bar 50 Frederick Street	
<b>Post town:</b> Birmingham	<b>Post Code:</b> B1 3HR
<b>Telephone Number:</b> Not Specified	

<b>Where the licence is time limited the dates</b> N/A
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<b>Licensable activities authorised by the licence</b>	
E	Live music
F	Recorded music
L	Late night refreshment
M1	Sale of alcohol by retail (on the premises)

<b>The times the licence authorises the carrying out of licensable activities</b>				
Sunday – Wednesday	08:00	-	00:00	E,F,M1
	23:00	-	00:00	L
Thursday	08:00	-	01:30	E,F,M1
	23:00	-	01:30	L
Friday	08:00	-	02:30	E,F,M1
	23:00	-	02:30	L
Saturday	08:00	-	03:00	E,F
	08:00	-	02:45	M1
	23:00	-	03:00	L
Christmas Eve and New Years Eve	08:00	-	04:00	E,F,M1
	23:00	-	04:00	L
Bank Holidays	08:00	-	02:00	E,F,M1
	23:00	-	02:00	L

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**The opening hours of the premises**

Sunday – Wednesday	08:00	-	00:00
Thursday	08:00	-	01:30
Friday	08:00	-	02:30
Saturday	08:00	-	03:00
Christmas Eve and New Years Eve	08:00	-	04:00
Bank Holidays	08:00	-	02:00

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

On Supplies Only



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Part 2

<b>Name, (registered) address, telephone number and email (where relevant) of holder of premises licence</b> Mr Seyhmus Ozdemir	
<b>Post town:</b>	<b>Post Code:</b>
<b>Telephone Number:</b>	
<b>Email</b>	

<b>Registered number of holder for example company number or charity number (where applicable)</b> N/A
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<b>Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol</b> Mr Seyhmus Ozdemir	
<b>Post town:</b>	<b>Post Code:</b>
<b>Telephone Number:</b>	

<b>Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol</b>	
<b>Licence Number</b> 9820	<b>Issuing Authority</b> BIRMINGHAM CITY COUNCIL

Dated 24/04/2017

David Kennedy  
Principal Licensing Officer  
For Director of Regulation and Enforcement

**Annex 1 – Mandatory Conditions**

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

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

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

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

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

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

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price. (2) In this condition:— (a) “permitted price” is the price found by applying the formula  $P = D + (D \times V)$ , where— (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol; (b) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence— (i) the holder of the premises licence, (ii) the designated premises supervisor (if any) in respect of such a licence, or (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence; (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in

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question; and (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994. (3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny. (4) Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

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

**Annex 2 – Conditions consistent with operating schedule**

**2a) General conditions consistent with the operating schedule**

Regulated entertainment and late night refreshment shall take place indoors only.

No adult entertainment, services or activities permitted on the premises.

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

CCTV will be in operation 24 hours a day.

CCTV to be installed to the specifications and locations of West Midlands Police (Licensing Dept at Birmingham Central Police station. Recording at all times premises are open for any licensable activity Which ever system used all images are to be held for a minimum of 28 days.

If tape system used all tapes are to be held in secure holding facility.

If tape system used all tapes to be replaced every 6 months with new ones. This is to be recorded in incident book for premises.

All images held are to be available immediately on request by any of the responsible authorities.

**RISK ASSESSMENT:** Premises will supply to West Midlands Police (Licensing Dept at Birmingham Central Police Station) the risk assessment for standard nights at the premises.

For any non-standard night, the DPS will provide risk assessment of the night/event to West Midlands Police (Licensing Dept at Birmingham Central Police Station) at least 28 days before the event, or at a time agreeable between DPS and the police.

All security measures (if needed) detailed in the risk assessment will have to be agreed with West Midlands Police (Licensing Dept at Birmingham Central Police Station). Agreement will be provided in writing to the DPS.

**DOOR SUPERVISORS:**

All door supervisors working at the premises are to sign on duty when they start work and off duty when they finish.

All door supervisors must wear there SIA badge in a clear sleeve arm holder.

Door supervisors working outside the premises will wear hi-visibility coats

Where door supervisors are used the premises will retain a profile of all door supervisors that have worked at the premises in the last 3 months.

A profile will consist of proof of ID (copy passport, photo driving license, SIA badge) and proof of address dated within the last 6 months (copy bank statement, utility bill etc). No proof of address needed if proof of ID is photo driving license

Door supervisor profiles must be retained at the premises and be made available for inspection immediately on request of any of the responsible authorities.

Door supervisors will work past the closing time of the premises for a period until all patrons have dispersed from the locality. Door supervisors will patrol areas around collection points for taxis by the premises to prevent disorder.

The premise will have an incident book and record all incidents that occur inside or immediately outside the premise, irrelevant if any of the emergency services have been called.

This incident book can be inspected at any time by any regulatory body.

**PROMOTERS:**

Where an event takes place using any of the licensable activities with an external promoter then the DPS must give notification to (Licensing Dept at Birmingham Central Police Station), at least 28 days before the event on the first occasion, and any other occasion where the same promoter is used for a different event. Recommendations will be provided in writing and will become conditions for use at that event.

These recommendations must be retained by the premises for inspection.

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### IDENTIFICATION

Premises will operate a Challenge 21 policy (can go higher if necessary)

Signage will be displayed at the venue.

The only identification that the premises will accept will be Photo driving licence, Passport or Pass approved card (Delete if necessary).

Refusals will be logged in a refusal register which must be available for inspection by any of the regulatory authorities.

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

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

Patrons and Taxis will be directed to the existing defined areas at Frederick Street and Vyse Street to avoid affecting residents on Albion Street.

During events at night, the DPS shall ensure that noise break out from the premises is monitored in order to ensure that a nuisance is not caused to occupiers in the vicinity. Results of assessments and follow up actions shall be promptly recorded in a diary to include the name of the person making the assessment, the date, time, location and results of the assessment and any follow up actions.

#### Customer Control

1. Customers shall not use the outside seating area after the hours of 11pm.
2. Between the hours of 2.30am and 3am music shall be lowered to background level.
3. Alcohol shall not be served after 2.45am.

#### Music

1. Windows to the front of the premises shall be kept closed when regulated entertainment is taking place on the premises.
2. All amplified music shall be controlled by a noise limiter, the noise limiter shall be installed and set at a level which meets with the approval of Birmingham City Council Environmental Health.

#### Taxi's

1. Customers who require a taxi from the site shall be advised by staff to use taxi companies specified by the licensee.
2. The licensee shall ensure that a written agreement is made with a reputable taxi company/ companies requiring that when taxis pick up and drop off customers from the licensed premise's, that noise from these vehicles does not cause a nuisance to local residents.
3. Notices shall be displayed within the licensed premises for customers to view, giving details of taxi companies to use.

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

Staff will record all refusals of alcohol and other age restricted products and the books will be checked and signed weekly by the Designated Premises Supervisor.

We will operate a Challenge 21 Policy as a minimum.

We will be vigilant to ensure that adults are not purchasing alcohol for those under 18.

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All staff will be trained in their responsibilities under the Licensing Act 2003 and other relevant legislation relating to age restricted products. This training will be updated /refreshed on a regular basis and records will be kept of this.

A refusal book will be maintained on the premises at all times. The refusals register will be available for inspection by any of the Responsible Authorities.

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**Annex 3 – Conditions attached after hearing by licensing authority**

**3a) General committee conditions**

The conditions agreed between applicant and Environmental Health, as shown in section 2d)to form part of the licence.

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

N/A

**3c) Committee conditions to promote public safety**

N/A

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

N/A

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

N/A

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### **Annex 4 – Plans**

The plan of the premises with reference number **101026-3536/4** which is retained with the public register kept by Birmingham City Council and available free of charge for inspection by appointment only. Please call the Licensing Section on 0121 303 9896 to book an appointment.





