

BIRMINGHAM CITY COUNCIL
LICENSING SUB-COMMITTEE A

Friday 19 April 2024 at 1100 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 recorded. The recording of the meeting will be uploaded to the Council's public-i microsite following completion of the meeting. Any 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: LICENSING ACT 2003 - REPRESENTATIONS BACK AGAINST INTERIM STEPS IMPOSED – RE: BAR 28, 28 BIRMINGHAM ROAD, SUTTON COLDFIELD, WEST MIDLANDS, B72 1QG – 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 1200 hours.

Documents submitted:

- A. Representations made by the premises licence holder
- B. Additional documentation from the Premises Licence Holder's Legal Representative.
- C. Decision of the meeting held on 27 March 2024.
- D. Certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003
- E. Application for Review of Licence
- F. Copy of Premises Licence
- G. Location maps

The premises licence holder has made representations back in respect of the interim steps imposed on 27 March 2024 (See Appendix A). Additional documentation from the Premises Licence Holder's Legal Representative (See Appendix B). A copy of the interim steps decision made by Licensing Sub Committee C on 27 March 2024 following the application from West Midlands Police for an expedited review of the premises licence in respect of **Bar 28, 28 Birmingham Road, Sutton Coldfield, West Midlands, B72 1QG** is attached at Appendix C.

The application was accompanied by a certificate signed by a senior member of the force, stating that in their opinion the licensed premises is associated with serious crime and disorder which was made under Section 53A of the Licensing Act 2003 (as amended). (See Appendices D & E respectively).

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 F.

At the hearing the licensing authority must:

- consider whether the interim steps are appropriate for the promotion of the licensing objectives; and
- determine whether to withdraw or modify the steps taken.

When considering the case the licensing authority must take into account:

- the senior officer's certificate that accompanies the application,
- the chief officer's representations (if any); and
- any representations made by the premises licence holder.

There is no right of appeal to a magistrates court against the licensing authority's decision at this stage.

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.

From: Louise Bailey <louise.bailey@dadds.co.uk>
Sent: Wednesday, April 17, 2024 2:46 PM
To: Licensing <licensing@birmingham.gov.uk>
Subject: BAR 28, 28 BIRMINGHAM ROAD, SUTTON COLDFIELD, WEST MIDLANDS B72 1QG - SUMMARY REVIEW OF PREMISES LICENCE - REPRESENTATION AGAINST INTERIM STEPS
Importance: High

Dear Sirs

Please find attached a letter in connection with the above matter for your attention.

Kind regards

Louise Bailey

Dadds LLP Licensing Solicitors

Crescent House, 51 High St, Billericay, Essex CM12 9AX

T 01277 631 811 DX 32202 BILLERICAY

E louise.bailey@dadds.co.uk

W www.dadds.co.uk

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The Licensing Authority
Birmingham City Council
PO Box 17831
BIRMINGHAM B2 2HJ

Our Ref: mn/cw/WIL6-1/1930

17th April 2024

By email only: licensing@birmingham.gov.uk

Dear Sirs

Bar 28, 28 Birmingham Road, Sutton Coldfield, West Midlands B72 1QG
Summary Review of Premises Licence
Representation against Interim Steps

We have been instructed to act on behalf of Bad Lady Limited for the above premises.

We understand an expedited review under S53A has been made in respect of the above premises and the Licensing Sub-Committee has made the decision to suspend the Premises Licence pending full review.

We wish to make application against interim steps made under S.53A. Please accept this letter as formal notice of representation under S.53B(6). Please confirm safe receipt.

We look forward to hearing from you and would be grateful if you could advise the date and time of the hearing, which must be heard within 48 hours, and if possible ask if the matter can be listed on Friday 19th April 2024.

Yours faithfully

Dadds

DADDS LLP

Dadds Solicitors

Crescent House, 51 High Street, Billericay, Essex, CM12 9AX
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BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE - C

WEDNESDAY 27 MARCH 2024

**BAR 28, 28 BIRMINGHAM ROAD, SUTTON COLDFIELD, WEST MIDLANDS, B72
1QG**

That having considered the application made and certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003 (as Amended by the Violent Crime Reduction Act 2006) for an expedited review of the premises licence held by Bad Lady Ltd in respect of Bar 28, 28 Birmingham Road, Sutton Coldfield, West Midlands, B72 1QG this Sub-Committee determines that:

- The licence be suspended pending a review of the licence, such a review to be held within 28 days of receipt of the Chief Officer of Police's certificate and application for an expedited review.
- Miss Laura Seymour be removed as the Designated Premises Supervisor.

The Sub-Committee exercised its power to hold part of this summary review hearing in private in accordance with regulation 14 of the Licensing Act 2003 (Hearings Regulations 2005) because there is an ongoing criminal investigation, the integrity of which ought reasonably to be protected at this time.

The Sub-Committee's reasons for imposing these interim steps are that they accept the advice and opinion of West Midlands Police in relation to the events inside and immediately outside the premises on the night of Friday 22nd March 2024.

It is clear that on the night in question the premises was being traded for licensable activities over an hour after the last permitted time for the supply of alcohol. At a time when the premises should have been winding down to its closure time, alcohol was still being served across the bar and the premises as a result remained busy with customers.

A disorder in which some violence occurred began inside the premises and spilled outside. A crowd followed the disorder outside and many patrons took glasses with them outside into the street. A few minutes later a patron was run down by a car outside the premises, in the Police's opinion with intent by the driver to do him serious harm. The person who was run down received serious leg injuries.

The Sub-Committee has considered all of the representations made today by the Police in support of the application and on behalf of the Premises Licence Holder.

The Sub-Committee took into account the representations today from two directors of the company that holds the premises licence. They explained that they had held the licence for nearly 18 months and not had any problems of this type before. They accepted that the premises was supplying alcohol after permitted hours on the night in question. The explanation given was that there was a lack of staff training and the DPS who was not on the premises had delegated authority to supply alcohol to a relatively new member of staff who had received minimal training from them. It was further stated that the normal clientele was over 30 years of age but on the night of the disorder a much younger and larger crowd had unexpectedly attended. It was accepted that glasses had been taken out of the premises by customers in the absence of any door supervisors, who had not previously been needed. It was emphasised that the emergency services had been called and the injured person had been taken to hospital by a director who had quickly attended on being notified of the incident. CCTV was provided to the Police to assist in their investigation. Apologies for the problems that occurred were offered to the Sub-Committee and there was some acceptance of the need for better training and management practices going forwards.

The Sub-Committee finds that there is a clear causal link between the management failures of the Premises Licence Holder and the Designated Premises Supervisor on the night in question, and the serious failure to promote the prevention of crime and disorder licensing objective that occurred. Both the PLH and DPS appeared ill-equipped to properly assess the risk of the licensing objectives not being promoted before the incident in question and design implement and enforce suitable measures to control those risks. The premises had a simple licence broadly suitable for its permitted alcohol hours, and early closing time, yet was being traded as a much higher risk late night bar on the night.

It seemed to the Sub-Committee that management failures led to not only unlicensed supplies of alcohol on the night but a wholesale lack of risk assessment and protective

measures being in place to reduce the risk of crime and disorder. The Sub-Committee was very concerned that the premises were being traded in such a way absent any effective or responsible management control.

While the concessions made by the Premises Licence Holder's representatives are welcomed as to events, on the night in question, the Sub-Committee has no confidence in their ability to adequately promote the licensing objectives at this time. This hearing has been heard on the eve of the coming Easter bank holiday weekend when the premises is bound to be put under similar pressure to that which occurred last Friday night. Accordingly, the licence must be suspended and the DPS removed as interim steps pending a full review. These steps are necessary and proportionate to the information provided to the Sub-Committee at this time.

The Sub-Committee considered whether to exercise its powers to impose some lesser step including a shorter-term suspension, and/or the modification of permissions or conditions on the licence but did not consider that any lesser step was adequate to meet their concerns as to the risk of the licensing objectives not being promoted and further serious crime or disorder occurring.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued by the Home Office in relation to expedited and summary licence reviews, and the submissions made by the police (and the premises licence holder) at the hearing.

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.

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: Bar 28, 28 Birmingham Road, Sutton, B72 1QG

Premise Licence Number: 5373

Premise Licence Holder: Bad Lady LTD

Designated Premise Supervisor: Miss Laura Seymour

I am a Superintendent in West Midlands Police.

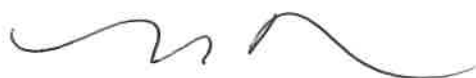
I am giving this certificate because I am of the opinion that the summary review procedure is necessary to ensure the licensing objectives are promoted expeditiously. Given the seriousness of the trigger incident on 22nd March 2024, in my opinion immediate steps are required that can best be achieved through the summary review procedures. Other steps available under the Licensing Act 2003, including a standard review application, cannot lead to the imposition of immediately effective steps to promote the licensing objectives and so these are inadequate. I view this application as a proportionate and necessary response to the serious incident at the venue.

On Friday 22nd March the venue was open and trading. Staff were serving drinks and the venue was busy.

At approximately 23:15 a disorder takes place inside the venue. Groups leave the venue and there are a large number of people on the pavement outside the venue, disorder continues outside. A vehicle is driven into the crowd which resulted in a male getting a serious leg injury. This has been crimed as a Section 18 of The Offences Against The Persons Act. 1861.

In coming to my opinion, I have had regard to the facts of the incident and current investigation, the track record of the premises, the terms of section 53A of the Licensing Act 2003 and Chapter 12 ("Summary Reviews") of the Guidance issued under section 182 of the Licensing Act 2003 (December 2022 revision).

Signed



SUPERINTENDENT PAUL MINTER
2923



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

1 - SUPERINTENDENT PAUL MINTH

(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: **Bar 28**

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

28 Birmingham Road

Post Town: **Sutton Coldfield**

Post Code (if known): **B72 1QG**

2. Premises Licence details:

Name of premise licence holder (if known):

Bad Lady Limited

Number of premise licence (if known):

5373

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

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

(Please tick the box to confirm)



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

On Friday 22nd March the venue was open and trading.

A disorder takes place in the bar at around 23:15 hours.

Various people exit the venue and the disorder continues outside of the premises.

A vehicle is then driven into the crowd, which results in a male getting a serious leg injury. This has been crimed as a wounding contrary to section 18 of The Offences Against The Persons Act. 1861..

There is an ongoing live criminal investigation into this matter which is a serious crime by virtue of the maximum sentence for this offence being life imprisonment.

"Serious crime" is defined by reference to S.81 of RIPA Act 2000. An offence for which an adult could reasonably be expected to be sentenced to imprisonment for a period of 3 years or more.

Signature of applicant:

Date: 26/03/2024

Rank/Capacity: SUPERINTENDENT 2923 PAUL MINK.

Contact details for matters concerning this application: BW Licensing

Address: Licensing Dept c/o Birmingham West and Central Licensing Dept, Lloyd House, 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 attended 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	5373
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Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description Bar 28, 28 Birmingham Road, Sutton Trinity, Sutton Coldfield, B72 1QG
Telephone Number 0121 630 3570

Where the licence is time limited the dates N/A

Licensable activities authorised by the licence Sale of Alcohol by Retail

Times the licence authorises the carrying out of licensable activities

Sale of Alcohol by retail:		
Day	Start Time	End Time
Monday	11:00	22:00
Tuesday	11:00	22:00
Wednesday	11:00	22:00
Thursday	11:00	22:00
Friday	11:00	22:00
Saturday	11:00	22:00
Sunday	11:00	22:00
Place:		
Seasonal Variations:		
Non-Standard Times:		

The opening hours of the premises		
Day	Start Time	End Time
Monday	11:00	22:30
Tuesday	11:00	22:30
Wednesday	11:00	22:30
Thursday	11:00	22:30
Friday	11:00	23:30
Saturday	11:00	23:30
Sunday	11:00	23:30
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

Bad Lady Limited
340 Aldridge Road, Streetly, B74 2DT

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

Company Number:14359327

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

Laura Seymour

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: 160745
Issuing Authority: Birmingham City Council

Dated 23-01-2023

Bhapinder Nandhra
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

BIRMINGHAM CITY COUNCIL

place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the Operating Schedule

The licensing objectives have been carefully considered taking account of the premises and their location. The proposed premises will promote the licensing objectives in accordance with the Section 182 Guidance. The premises will operate in accordance with all relevant legislation.

CCTV that is approved by West Midlands police 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 premises will operate a Challenge 25 Policy Staff involved in the sale of alcohol are to be trained under the Licensing Act 2003 prior to being allowed to sell/ supply alcohol. All training is to be documented and signed by the Premises License Holder and the trainee. All training records are to be made available to any of the responsible authorities on request. Staff involved in the sale/ supply of alcohol are to receive documented refresher training every six months. Contracts with third party delivery companies are to be on-site and are to be made available to any of the responsible authorities on request. The Premises License Holder is to have a documented Alcohol Policy to indicate that all third party delivery companies have trained their staff under the Licensing Act 2003. The Alcohol Policy is also to cover how age restricted products are sold on-line and the checks that are to be made. This policy is to be made available to any of the responsible authorities on request. Prior to working any third party delivery company must sign and date the Alcohol Policy to indicate their agreement to adhere to it. Details of every delivery of alcohol is to be recorded including the identity of who it was delivered to and the identity of the deliverer. This data is to be made available to any of the responsible authorities within twenty-four hours of it being requested. The training document used by any third party involved in delivery detailing Licensing Act training is to be signed off by the DPS and/or the Premises License Holder to show that it satisfies their training requirements for the promotion of the Licensing Objectives Any refusal to supply at the point of delivery is to be documented in the refusals log.

The premises will be adequately ventilated to prevent nuisance. Notices will be displayed at the premises requesting customers to respect the needs of nearby residents and to leave the premises and the area quietly. The outdoor area will be usable only by those purchasing food from the Premises and will be closed and cleared of customers by 22.00. Noise levels will be monitored, and customers requested to minimise noise to prevent noise nuisance. The movement of bins and rubbish outside the premises will be kept to a minimum. Arrangements will be made for the storage and disposal of refuse which do not cause a nuisance.

The premises will operate in accordance with all relevant legislation which promotes the public safety objective including, but not limited to, the Health & Safety At Work etc. Act 1974 and associated regulations, the Food Safety Act 1990, the Regulatory Reform (Fire Safety) Order 2005 and the Equality Act 2010. The necessary fire safety precautions will be installed and maintained.

The premises will liaise and co-operate with the Responsible Authorities. Staff will be trained to observe the measures necessary to promote the protection of children objective. Non-alcoholic drinks will be available.

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

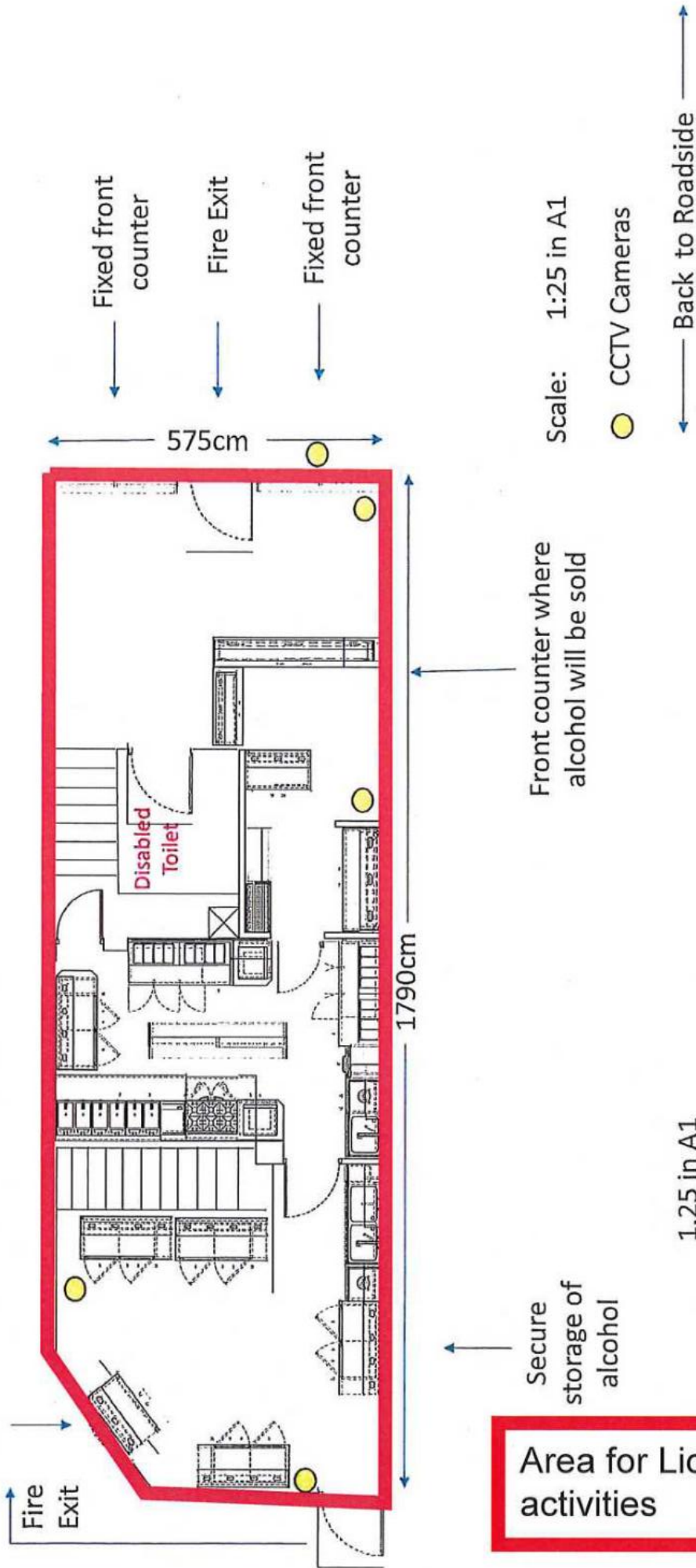
N/A

Annex 4 – Plans

The plan of the premises with reference number **161420** 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

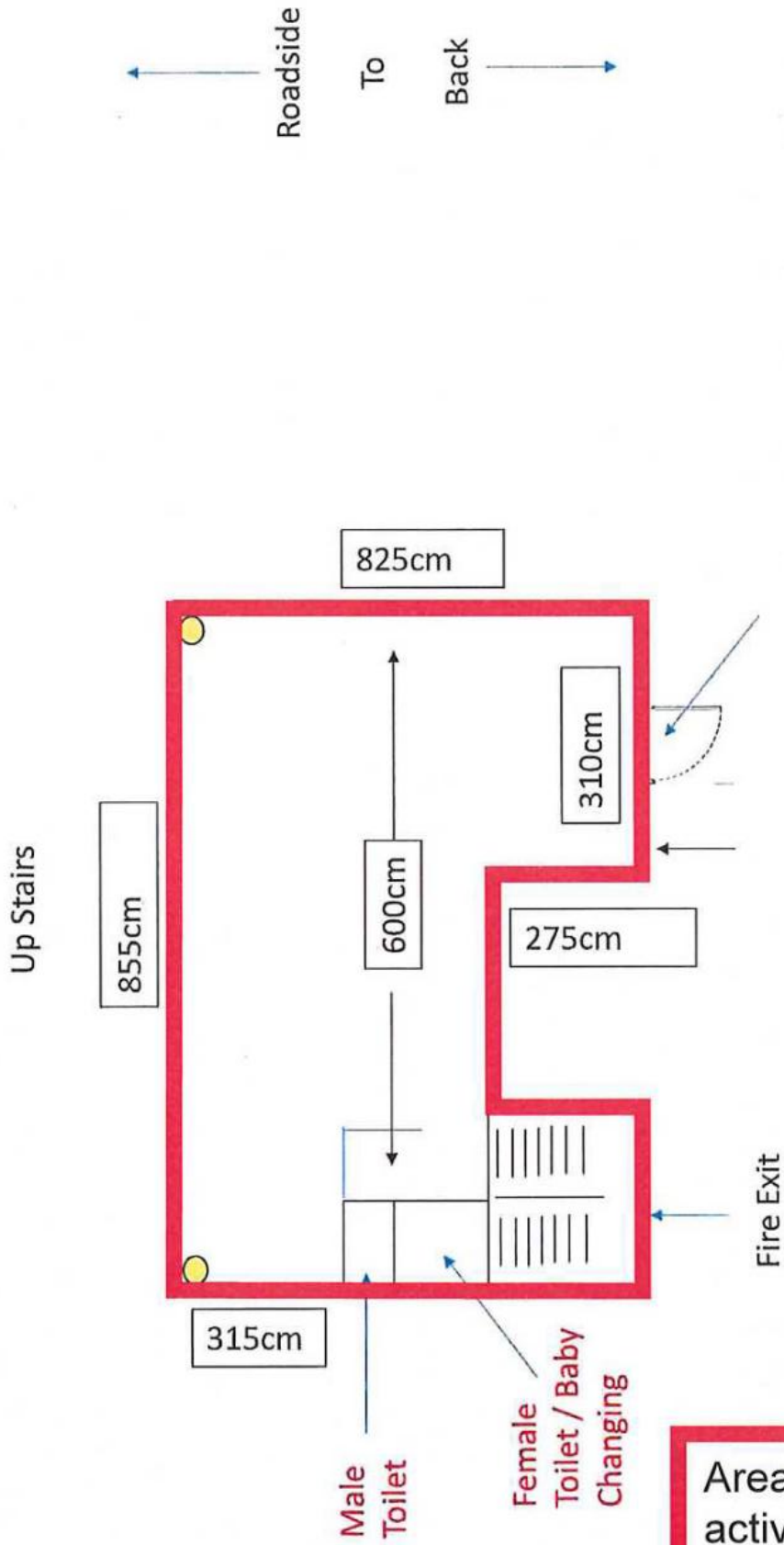
Outdoor seating hatch, food and drink potentially to be handed over here with covid outdoor seating regulations

Downstairs



Area for Licensable activities

● CCTV Cameras



This is a fire exit but will not be part of the fire exit procedure as per fire assessment. The building limit will be 60 persons inside.

Area for Licensable activities

● CCTV Cameras

Outdoor Seating

