

# BIRMINGHAM CITY COUNCIL

## PUBLIC REPORT

<b>Report to:</b>	<b>Licensing Sub Committee C</b>
<b>Report of:</b>	<b>Acting Director of Regulation &amp; Enforcement</b>
<b>Date of Meeting:</b>	<b>Wednesday 31<sup>st</sup> May 2017</b>
<b>Subject:</b>	<b>Licensing Act 2003 Premises Licence – Grant</b>
<b>Premises:</b>	<b>The Arena, 18 – 19 Hack Street, Digbeth, Birmingham, B9 4AH</b>
<b>Ward affected:</b>	<b>Nechells</b>
<b>Contact Officer:</b>	<b>David Kennedy, Principal Licensing Officer, 0121 303 9896, <a href="mailto:licensing@birmingham.gov.uk">licensing@birmingham.gov.uk</a></b>

### 1. Purpose of report:

To consider a relevant representation that has been made in respect of an application for a Premises Licence which seeks to permit the Sale of Alcohol (for consumption both on and off the premises) to operate from 08:00am until 06:00am (Monday to Sunday).

To permit the provision of Regulated Entertainment consisting of plays, films, indoor sporting events, boxing or wrestling, live music, recorded music, performances of dance, and anything of a similar description, to operate both indoors and outdoors, from 08:00am until 06:00am (Monday to Sunday).

To permit the provision of Late Night Refreshment to operate from 11:00pm until 05:00am (Monday to Sunday).

Premises to remain open to the public from 08:00am until 06:00am (Monday to Sunday).

### 2. Recommendation:

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

### 3. Brief Summary of Report:

An application for a Premises Licence was received on 6<sup>th</sup> April 2017 in respect of The Arena, 18 – 19 Hack Street, Digbeth, Birmingham, B9 4AH.

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

### 4. Compliance Issues:

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

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

<p><b>5. Relevant background/chronology of key events:</b></p> <p>Bow Leasehold Ltd applied on 6<sup>th</sup> April 2017 for the grant of a Premises Licence for The Arena, 18 – 19 Hack Street, Digbeth, Birmingham, B9 4AH.</p> <p>A representation has been received West Midlands Police, as a responsible authority, which is attached at Appendix 1.</p> <p>The application is attached at Appendix 2.</p> <p>It should be noted that Bow Leashold Ltd currently have a licence in force for these premises which was subject to a review application submitted by West Midlands Police. Licensing Sub-Committee A, on Monday 30 January 2017, resolved to suspend the licence for 3 months and to remove the Designated Premises Supervisor (DPS). A copy of the minutes and decision are attached at Appendix 3. As Bow Leashold Ltd exercised their right of appeal against the aforementioned decision to Birmingham Magistrates Court this decision has not taken effect.</p> <p>Site Location Plans at Appendix 4.</p> <p>It should also be noted that there is now a special policy in force for the Digbeth area. The effect of a special policy is to create a rebuttable presumption that applications for new licences or material variations to existing licences will normally be refused unless it can be shown that the premises concerned will not add to the cumulative impact on the licensing objectives being experienced.</p> <p>The Council will expect the applicant to demonstrate the steps it will take to promote the licensing objectives. Where relevant representations are made, the Council will consider the application on its individual merits and decide whether to apply the special policy.</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> <ul style="list-style-type: none"> <li>a. The prevention of crime and disorder;</li> <li>b. Public safety;</li> <li>c. The prevention of public nuisance; and</li> <li>d. The protection of children from harm.</li> </ul>
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<p><b>6. List of background documents:</b></p> <p>Copy of the representation as detailed in Appendix 1  Application Form, Appendix 2  Decision of Licensing Sub-Committee A on Monday 30<sup>th</sup> January 2017, Appendix 3  Site Location Plans, Appendix 4</p>
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<p><b>7. Options available</b></p> <p>To Grant the licence in accordance with the application.  To Reject the application.  To Grant the licence subject to conditions modified to such an extent as considered appropriate.  Exclude from the licence any of the licensable activities to which the application relates.  Refuse to specify a person in the licence as the premises supervisor.</p>
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## Appendix 1

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**From:** Ben Reader  
**Sent:** 04 May 2017 10:03  
**To:** Licensing; David Kennedy; Shaid Yasser; Bhapinder Nandhra  
**Subject:** Arena Premises licence application

Good Morning,

This mail is in relation to the new premises application for

The Arena,  
18-19 Hack Street  
B9 4AH

made by Bow Leasehold Limited.

West Midlands Police lodged a review against the current premises licence for this location held by the applicant in December. This was heard in January, and the committee suspended the licence for three months as well as removing the DPS, Richard McGee. The suspension was imposed following evidence of the breach of committee imposed conditions and procedures agreed at a safety advisory group. These breaches undermined the public safety as well as the crime and disorder licensing objectives. An appeal is listed in relation to this review.

The submission of a new, almost identical licence application seems to undermine the current review and appeal process.

West Midlands Police object to this new licence being granted under the grounds of public safety and crime and disorder.

Thank you

Ben

**Police Constable 2413 Ben Reader**  
**Licensing Department**  
**Birmingham West Local Policing Unit**  
Police Headquarters,  
Lloyd House,  
Birmingham,  
B4 6NQ

**Preventing crime, protecting the public and helping those in need**

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20/- 101303  
6/4/2017 -  
4/5/2017

**Application for a premises licence to be granted  
under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

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

You may wish to keep a copy of the completed form for your records.

**I/We BOW LEASEHOLD LIMITED**

*(Insert name(s) of applicant)*

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

**Part 1 – Premises details**

Postal address of premises or, if none, Ordnance Survey map reference or description  <b>The Arena</b> <b>18 – 19 Hack Street</b>	<div style="text-align: center;"> <b>BCC</b>  <b>REGULATION &amp; ENFORCEMENT</b>  <b>LICENSING SECTION</b> </div> <div style="text-align: center; border: 1px solid black; padding: 5px;">             DATE RECEIVED              REF NO <u>5800 761241</u>              INITIALS <u>000339</u> £190.00           </div>				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;"><b>Post town</b></td> <td style="width: 40%;">BIRMINGHAM</td> <td style="width: 30%;"><b>Postcode</b></td> <td style="width: 10%;">B9 4AH</td> </tr> </table>	<b>Post town</b>	BIRMINGHAM	<b>Postcode</b>	B9 4AH	
<b>Post town</b>	BIRMINGHAM	<b>Postcode</b>	B9 4AH		

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£18,750

**Part 2 – Applicant details**

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

- |  |   |
|--|---|
| a) an individual or individuals *                    | <input type="checkbox"/> please complete section (A)            |
| b) a person other than an individual *               |   |
| i as a limited company/limited liability partnership | <input checked="" type="checkbox"/> please complete section (B) |
| ii as a partnership (other than limited liability)   | <input type="checkbox"/> please complete section (B)            |
| iii as an unincorporated association or              | <input type="checkbox"/> please complete section (B)            |
| iv other (for example a statutory corporation)       | <input type="checkbox"/> please complete section (B)            |
| c) a recognised club                                 | <input type="checkbox"/> please complete section (B)            |
| d) a charity   | <input type="checkbox"/> please complete section (B)            |
| e) the proprietor of an educational establishment    | <input type="checkbox"/> please complete section (B)            |
| f) a health service body                             | <input type="checkbox"/> please complete section (B)            |

- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c 14) in respect of an independent hospital in Wales ☐ please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England ☐ please complete section (B)
- h) the chief officer of police of a police force in England and Wales ☐ please complete section (B)

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

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

I am making the application pursuant to a

statutory function or ☐

a function discharged by virtue of Her Majesty's prerogative ☐

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

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
Date of birth			I am 18 years old or over <input type="checkbox"/> Please tick yes		
Nationality					
Current residential address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

**SECOND INDIVIDUAL APPLICANT (if applicable)**

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
Date of birth			I am 18 years old or over <input type="checkbox"/> Please tick yes		
Nationality					
Current postal address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

**(B) OTHER APPLICANTS**

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

Name BOW LEASEHOLD LIMITED
Address 160 HIGH STREET DERITEND BIRMINGHAM B12 0LD
Registered number (where applicable) 09277167
Description of applicant (for example, partnership, company, unincorporated association etc.)  Company
Telephone number (if any)
E-mail address (optional)

### Part 3 Operating Schedule

When do you want the premises licence to start?

DD		MM		YYYY			
1	1	0	5	2	0	1	7

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

DD		MM		YYYY			
1	1	1	1	1	1	1	1

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

The premises are a live entertainment venue bounded by Hack Street and Lower Trinity Street. They consist of a flat concrete parking area enclosed by high walls and there are six railway arches. A stage and associated temporary facilities will be provided, full details of which will be given to the Safety Advisory Group Meeting in due course but they will be positioned on the plan of the licensed premises accompanying this application.

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

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

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

Provision of regulated entertainment (please read guidance note 2)

Please tick all that apply

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

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

☒

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

☒

In all cases complete boxes K, L and M

# A

<b>Plays</b> Standard days and timings (please read guidance note 7)			<b>Will the performance of a play take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish			
Mon	08:00		<b>Please give further details here</b> (please read guidance note 4)		
		06:00			
Tue	08:00				
		06:00			
Wed	08:00		<b>State any seasonal variations for performing plays</b> (please read guidance note 5)		
		06:00			
Thur	08:00				
		06:00			
Fri	08:00		<b>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		
		06:00			
Sat	08:00				
		06:00			
Sun	08:00				
		06:00			

# B

<b>Films</b> Standard days and timings (please read guidance note 7)			<b>Will the exhibition of films take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish			
Mon	08:00		<b>Please give further details here</b> (please read guidance note 4)		
		06:00			
Tue	08:00				
		06:00			
Wed	08:00		<b>State any seasonal variations for the exhibition of films</b> (please read guidance note 5)		
		06:00			
Thur	08:00				
		06:00			
Fri	08:00		<b>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		
		06:00			
Sat	08:00				
		06:00			
Sun	08:00				
		06:00			



C

<b>Indoor sporting events</b> Standard days and timings (please read guidance note 7)			<b>Please give further details</b> (please read guidance note 4)
Day	Start	Finish	
Mon	08:00	06:00	<b>State any seasonal variations for indoor sporting events</b> (please read guidance note 5)
Tue	08:00	06:00	
Wed	08:00	06:00	
Thur	08:00	06:00	<b>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</b> (please read guidance note 6)
Fri	08:00	06:00	
Sat	08:00	06:00	
Sun	08:00	06:00	

D

<b>Boxing or wrestling entertainments</b> Standard days and timings (please read guidance note 7)			<b>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</b> (please read guidance note 3)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 4)			
Mon	08:00	06:00	<b>State any seasonal variations for boxing or wrestling entertainment</b> (please read guidance note 5)			
Tue	08:00	06:00				
Wed	08:00	06:00				
Thur	08:00	06:00	<b>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</b> (please read guidance note 6)			
Fri	08:00	06:00				
Sat	08:00	06:00				
Sun	08:00	06:00				

## E

<b>Live music</b> Standard days and timings (please read guidance note 7)			<b>Will the performance of live music take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish			
Mon	08:00	06:00	<b>Please give further details here</b> (please read guidance note 4)		
Tue	08:00	06:00			
Wed	08:00	06:00	<b>State any seasonal variations for the performance of live music</b> (please read guidance note 5)		
Thur	08:00	06:00			
Fri	08:00	06:00	<b>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		
Sat	08:00	06:00			
Sun	08:00	06:00			

## F

<b>Recorded music</b> Standard days and timings (please read guidance note 7)			<b>Will the playing of recorded music take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish			
Mon	08:00	06:00	<b>Please give further details here</b> (please read guidance note 4)		
Tue	08:00	06:00			
Wed	08:00	06:00	<b>State any seasonal variations for the playing of recorded music</b> (please read guidance note 5)		
Thur	08:00	06:00			
Fri	08:00	06:00	<b>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		
Sat	08:00	06:00			
Sun	08:00	06:00			

# G

<b>Performances of dance</b> Standard days and timings (please read guidance note 7)			<b>Will the performance of dance take place indoors or outdoors or both – please tick</b> (please read guidance note 3)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input checked="" type="checkbox"/>
Day	Start	Finish				
Mon	08:00		<b>Please give further details here</b> (please read guidance note 4)			
		06:00				
Tue	08:00					
		06:00				
Wed	08:00		<b>State any seasonal variations for the performance of dance</b> (please read guidance note 5)			
		06:00				
Thur	08:00					
		06:00				
Fri	08:00		<b>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</b> (please read guidance note 6)			
		06:00				
Sat	08:00					
		06:00				
Sun	08:00					
		06:00				

# H

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 7)			Please give a description of the type of entertainment you will be providing			
Day	Start	Finish	<b>Will this entertainment take place indoors or outdoors or both – please tick</b> (please read guidance note 3)		Indoors	<input type="checkbox"/>
Mon	08:00				Outdoors	<input type="checkbox"/>
		06:00			Both	<input checked="" type="checkbox"/>
Tue	08:00		<b>Please give further details here</b> (please read guidance note 4)			
		06:00				
Wed	08:00					
		06:00				
Thur	08:00		<b>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</b> (please read guidance note 5)			
		06:00				
Fri	08:00					
		06:00				
Sat	08:00		<b>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</b> (please read guidance note 6)			
		06:00				
Sun	08:00					
		06:00				

# I

<b>Late night refreshment</b> Standard days and timings (please read guidance note 7)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 4)		
Mon	23:00	05:00			
Tue	23:00	05:00	<b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 5)		
Wed	23:00	05:00			
Thur	23:00	05:00	<b>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</b> (please read guidance note 6)		
Fri	23:00	05:00			
Sat	23:00	05:00			
Sun	23:00	05:00			

# J

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 7)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 8)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 5)		
Mon	08:00	06:00			
Tue	08:00	06:00	<b>Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		
Wed	08:00	06:00			
Thur	08:00	06:00			
Fri	08:00	06:00			
Sat	08:00	06:00			
Sun	08:00	06:00			

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

Name Mr Melvyn Benjamin SYMMONS	
Date of birth	
Address	
Postcode	
Personal licence number (if known)	
Issuing licensing authority (if known)	

## K

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

It is not at present intended to use the premises for adult entertainment but the Applicant cannot rule out such a use in the future. If adult entertainment was introduced it would be on an infrequent basis, i.e. provided on not more than 11 occasions within a 12 month period, no such occasion beginning within a period of one month beginning with the end of the previous occasions and no such occasion lasting longer than 24 hours.

## L

Hours premises are open to the public Standard days and timings (please read guidance note 7)			State any seasonal variations (please read guidance note 5)
Day	Start	Finish	
Mon	08:00	06:00	<p><b>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 6)</b></p>
Tue	08:00	06:00	
Wed	08:00	06:00	
Thur	08:00	06:00	
Fri	08:00	06:00	
Sat	08:00	06:00	
Sun	08:00	06:00	

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

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

The premises licence holder proposes a number of events per year of such size that would necessitate an event management plan. Provided always that smaller events may take place in a part or parts of the licensed area to be agreed with West Midlands Police.

The operating policies and procedures are identified in the Event management Plan which will be produced by the Licence Holder and which will be submitted as a separate document to the Responsible Authorities for consultation purposes and full and detailed consultation with each of the Responsible Authorities and each of those persons and/or organisations referred to the Event Safety Guide issued by the Health and Safety Executive or any replacement guidance subsequently issued.

The event shall take place only in accordance with the Event Management Plan produced for the event and agreed with the Responsible Authorities and the Licence Holder will appoint an Event Safety officer who is of sufficient competence, status and authority to advise the Licence Holder effectively on safety at the event. Authorised officers of the Licensing Authority and the Responsible Authorities who are in the course of their duties will be given access to all parts of the licensed premises for the purposes of monitoring and enforcing the observance of any conditions and any other relevant legislation.

The Licence Holder will make arrangements for a dedicated telephone line to be made available and manned for the receipt of any complaints from the general public while the event is taking place and such telephone number will be publicised locally and all complaints recorded.

The Licence Holder shall ensure there will be no encouragement of excessive drinking or irresponsible sale of cheap promotional drinks and that soft drinks and water will be regularly available to all patrons and tap water will be available free of charges at any time.

The Licence Holder shall ensure that polycarbonate drink glasses or similar will be utilised.

The number of Personal Licence holders on the premises when operational shall be at least two or such other number as is agreed from time to time with West Midlands Police.

The operator will call a Safety Advisory Group Meeting and there is a power of veto of any event where the SAG is not able to set conditions or operation which satisfy the licensing objectives. Any conditions set during the SAG meeting shall become licensing conditions for that event and they must be kept in writing on the premises during the event and available for inspection by all statutory bodies.

The Licence Holder shall ensure that both the DPS and/or a senior manager and the promoter, if any, will be in attendance at the SAG meeting.

The security levels at any event will be dependent on the risk assessment and such number as is agreed shall become a condition of the Premises Licence for that particular event through the SAG process.

Small events which take place in a part or parts of the licensed area will be agreed with the West Midlands Police and Birmingham Environmental Health Department.

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

The Licence Holder will make adequate provisions for monitoring and controlling the number of persons entering the licensed premises and any temporary structures within it. The Licence Holder will make all necessary arrangements by way of fencing, gate systems, security and other provisions to prevent unauthorised access to the licensed premises.

The Licence Holder will ensure that arrangements are put into place for providing information to persons attending the event, to include dealing with lost and found property, emergency services, counselling, promoting responsible drinking and taking care of their hearing. All appropriate information and conditions will be printed on the reverse of the tickets and displayed at entrances.

The Licence Holder shall ensure that continuous discussions between West Midlands Police Force, the appointed security/stewarding company and the event organisers will take place prior to and during the period that the Event is taking place to ensure that all means possible are employed to prevent crime and disorder. Operational plans will be drawn up between the Event organisers and the West Midlands Police Force taking into account the experience of previous events in this location.

Digital CCTV and appropriate recording equipment is to be installed operated and maintained throughout the premises internally and externally providing full coverage. Such CCTV footage will be stored for a minimum of 28 days and the management will give full and immediate cooperation and technical assistance to the police in the event that CCTV footage is requested for the prevention and detection of suspected or alleged crime. For the avoidance of doubt such footage as West Midlands Police require will be made available by a trained operator at the time of the request. CCTV cameras and monitors are to be installed and in positions agreed with West Midlands Police.

The Licence Holder shall ensure that all SIA badges will be displayed in arm bands worn by the door supervisors and shall be valid and up to date. All door supervisors who are working at the premises or have worked at the premises within the last three months shall have a profile of themselves kept in a secure location within the premises. This profile will be proof of address (utility bill, bank statement, phone bill, etc) which is dated within the last six months and proof of identity (passport, driving licence or copy of SIA badge). If proof of ID is photo driving licence there is no requirement for proof of address. The Licence Holder shall ensure that all door supervisors will sign on duty as they start work and off duty when they are leaving. Fluorescent jackets or tabards shall be worn by all door supervisors.

Any queue forming outside the premises will be monitored by door staff to prevent nuisance and to give early identification of individuals or groups who will not be permitted access to the premises.

The Licence Holder will ensure that individuals who are drunk, disorderly or both will not be permitted access to the premises and search facilities shall be available at the entrance. Persons suspected of being unlawfully in possession of drugs will be searched. Any person declining being searched by door staff will be refused access to the premises.

The Licence Holder will ensure that the Door staff will strictly enforce and comply with Rainbow Live Music Venue Drugs Policy and will be sited throughout the premises in positions dictated by the Event Management Plan and/or as agreed with West Midlands Police.

The Licence Holder shall ensure the conduct of patrons leaving premises will be supervised and monitored to minimise potential nuisance. Similarly, conduct of the general public in vicinity will be monitored and the Police advised of inappropriate behaviour/unlawful activity.

The Licence Holder shall ensure that a fixed camera will be placed on the outside of the premises at the entrance with the ability to monitor any queue and the Door staff to augment the fixed camera and monitor any queue.

The Licence Holder will ensure that Personal radios will be provided by Management. When present on site, all door staff will be provided with personal radios permitting their being able to communicate with each other, their Management on site and the Management. The site

will have its own "Operations Room", able to act as communications hub for the venue.

- 1) On any occasion a multiple room or multiple venue event takes place the following conditions to apply:
  - a) A minimum of two undercover SIA operatives to be deployed in the Premises.
  - b) The following drugs policy, as set out below, shall be implemented:
    - i) Customers will be asked to open their mouths for a mouth inspection;
    - ii) Persons with long hair will be subject to a hair inspection.
    - iii) Contents of pockets will be emptied and bags checked, for example, sealed cigarette packets, lip balm, stash lighters, inhalers, tinned mints, perfume caps, umbrella's, torches etc.
    - iv) Legs will be checked. Any person suspected of concealing items will be required to proceed to the Enhanced Search Area before entry can be granted.
  - c) On suspicion, selected persons will be escorted to an enhanced private search area where their shoes, socks and belts will be removed and a more thorough search carried out of them and their possessions.
    - i) All enhanced searches will be conducted by two security personnel in full view of CCTV.
    - ii) During an enhanced search UV torches will be used by search operatives.
  - d) All relevant staff, as agreed with West Midlands Police, to be trained in drugs awareness to the BIIAB qualification.
  - e) Additional signage to be displayed throughout the Premises with the following wording:- "To help support our zero tolerance to drugs policy, random searches will be conducted inside the venue during the course of any event. Anyone refusing to participate in a search will be asked to leave the venue. To help support our zero tolerance to drugs policy, ultraviolet (UV) lights are positioned outside all of our toilets. Any persons that are seen to be exposed by the lights for drugs usage will be banned from the venue and reported to the police. This venue confiscates IDs that are used falsely or fraudulently. The seized licences/passports etc will be handed to West Midlands Police."
  - f) A log of all suspected fraudulent identities used at the Premises to include the time, date and location of seizures be maintained and be made available to the Police upon request.
  - g) The Premises to use a minimum of one drugs dog.
  - h) If staff at the Premises are suspicious that an ID is not valid then a second form of ID will be required and or a supplementary bank card.
  - i) The Premises Licence Holder, Designated Premises Supervisor or his nominated deputy shall check and record details of the SIA Licence held by any member of door staff engaged to act as such, by the Premises Licence Holder. This check shall be carried out each day a member of door staff reports for duty. Door Staff will not be allowed to enter their own details into the record book. Such records shall be made available upon request of West Midlands Police.

Drugs dogs are required at all events at The Arena whether under the conditions of the licence or as a result of a Safety Advisory Group meeting. If ordered at such a meeting the requirement and number of drugs dogs becomes a condition of the licence. If for any reason whatever the drugs dogs are not available and in situation at the premises at the commencement of the event, the public will not be admitted to the premises at all until such time as the said dogs arrive. For the avoidance of doubt if they do not arrive at all, the event shall not take place and no licensable activities whatever shall happen.

When drugs dogs are booked by the premises licence holder or the designated premises supervisor they shall send confirmation of such a booking to West Midlands Police and the Licensing Department at least 14 days before the event is due to take place.

The CCTV cameras in the temporary searching area on air car park or wherever shall be fully covered by temporary CCTV cameras to the satisfaction of West Midlands Police.



**c) Public safety**

A professionally prepared fire risk assessment will be produced which will propose maximum numbers which will thereafter be agreed with West Midlands Fire Service and West Midlands Police and become the maximum number for the premises and such capacity will not be exceeded, provided always that such number may be varied upwards or downwards by agreement with West Midlands Fire Service and West Midlands Police.

Appropriate arrangements by way of fencing, gate systems, security or other provisions will be made, in agreement with Responsible Authorities, to prevent unauthorised access to the site.

Entrances and exits to the licensed premises including roadways, pedestrian routes and emergency vehicle routes will be kept clear at all times and will be adequately illuminated during periods of darkness. A lighting check will be carried out in consultation with the appropriate Responsible Authorities before the site is opened to the public.

Adequate lighting levels shall be maintained at all times within the event area.

All electrical installations and equipment will comply with the general requirements of the Electricity at Work Regulations 1989 and to the general provisions of the Event Safety Guide (or any replacement guidance subsequently used).

All generators on site shall conform to the control measures set out in the Event Management Plan.

Suitable and sufficient fire fighting provisions will be provided and maintained on site throughout the duration of each year's Event to the satisfaction of West Midlands Fire Service.

The fire retardancy characteristics of all tentage, drapes, scenery, or similar, used on or in any temporary structures on site will be to the satisfaction of West Midlands Fire Service.

The siting of all vehicles, generators, tents, marquees, dressing rooms or similar, shall be arranged so as to provide fire breaks to the satisfaction of West Midlands Fire Service.

Concessions and traders with cooking facilities shall be positioned and spaced to the satisfaction of West Midlands Fire Service.

No pyrotechnic or flame effects are to be used without the approval of West Midlands Fire Service.

The Licence Holder will appoint a suitably competent organisation to manage and provide suitably manned and equipped medical/first aid facilities on site to the satisfaction of the Responsible Authorities.

Details of all stages and public access and other key temporary structures will be included in the Event Management Plan.

The Licence Holder will ensure that arrangements and special provisions for disabled persons, namely access and egress routes, car parking, sanitation facilities and viewing areas as agreed with the Responsible Authorities are provided and maintained for the duration of the event.

All food vendors and traders will be available for inspection by enforcement officers of the Council at all reasonable times. The Licence Holder will facilitate and support authorised officers undertaking their enforcement duties.

No glass containers shall be sold or distributed in the event areas.

The Licence Holder will ensure that all emergency exits are clear, accessible and maintained for the duration of the event .

All on site safety signage will comply with appropriate guidance given in the Event Safety Guide (or any replacement guidance subsequently issued).

**d) The prevention of public nuisance**

The Licence holder shall ensure that whenever regulated entertainment takes place within the licensed premises, such entertainment will not be such as to be a statutory nuisance in the nearest noise sensitive or residential premises.  
Until 23:00 hours the sound level from the premises shall not exceed 65 dB LAeq(15 minutes) at the facade of any residential premises.

After 23:00 hours, sound from the premises shall be inaudible inside any residential premises as perceived by an Officer of a Responsible Authority.

The Licence Holder will comply with any reasonable requirements as to noise made during the event by the appropriate Responsible Authority.

The Licence Holder will appoint a litter management company.

The Licence Holder will ensure that waste generated from sanitary and washing facilities is properly disposed of. A service schedule will be contained within the Event Management Plan.

Door supervisors shall supervise and where necessary take appropriate action to control the behaviour of patrons in the vicinity of the premises to ensure that patrons do not cause noise nuisance to residents.

The Premises Licence Holder and/or the Designated Premises Supervisor shall ensure that all litter deposited in the vicinity of the premises is cleared within 6 hours of cessation of activities, and periodically during an event as necessary.

At least 4 weeks prior to an event, the Licensee shall submit for approval to Environmental Health a draft letter of information incorporating details of the time and date of the event and a contact telephone number (response hotline) of a responsible person who will be present for the duration of the event that can be used by occupiers if they feel they are suffering intrusive noise. Accompanying this letter shall be a list of local occupiers who may be affected by noise from the event. Once approved by Environmental Health the letter shall be delivered to the agreed list of local residents at least 2 weeks before the event.

At least 2 weeks prior to an event, the Licensee shall provide a sound monitoring method statement to Environmental Health. This shall include but not be limited to details of the sound engineer who will carry out the monitoring, the method and locations to be monitored, and actions to take in response to complaints made to the responsible person via the response hotline. Once approved by Environmental Health the method statement shall be implemented during the event.

The sound monitoring shall be carried out by a person deemed competent by Environmental Health. This person shall have direct influence over the level of sound provided through the sound system, and the authority to make any adjustments necessary to ensure compliance with the noise limits.

Results of sound monitoring shall be provided to Environmental Health within 7 days of the event finishing.

At least one member of the management team working during an event shall hold the Institute of Acoustics Certificate of Competence in Environmental Noise Measurement (or other qualification agreed with Environmental Health). At least two members of the management team working during an event shall hold an alternative qualification regarding noise and public nuisance as agreed with Environmental Health.

The Premises Licence Holder will assign a member of security to 181 High Street, Deritend, Birmingham B12 0LD when large events are in the Arena or large events are in the Rainbow Warehouse/Air Car Park or when the Rainbow Venues have street closures.  
Events in the Air Car Park will be limited to no more than 12 per calendar year.  
The Premises Licence Holder will install a gate/roller shutter to the entrance of 181 High Street, Deritend, Birmingham B12 0LD and to the communal alleyway access to the properties and ensure this is maintained.

A member of security will be introduced to the occupier of 181 High Street, Deritend, Birmingham B12 0LD at least three working days before any such event that requires

security. The security must be at 181 High Street, Deritend, Birmingham B12 0LD one hour before the start of any show in order to deter people from coming down the alleyway and protect 181 High Street, Deritend, Birmingham B12 0LD from damage or prevent the alley being used to gain unlawful access or soliciting/public nuisance/urinating.

All external promoters and flyer staff will have to sign a community policy where they agree not to flyer or trespass in the alleyway adjacent to 181 High Street, Deritend, Birmingham B12 0LD.

A signed copy of the agreement entered into between the Premises Licence Holder and the occupier of 181 High Street, Deritend, Birmingham B12 0LD is available for inspection at the premises if required.

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

The premises shall adopt the Challenge 25 Scheme and appropriate signage will be placed at the entrance to the premises and adjacent to any bar server. The premises will operate a policy whereby any person attempting to buy alcohol or any person attempting to gain entry to the premises who appears to be under 25 will be asked for photographic ID to prove their age. The only ID that will be accepted is a passport, driving licence with a photograph or an accredited proof of age card bearing the PASS mark hologram.

**Checklist:**

**Please tick to indicate agreement**

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

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

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

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

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

<b>Declaration</b>	<ul style="list-style-type: none"> <li>[Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15).</li> <li>The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15)</li> </ul>
Signature	<i>Wright Hassall LLP</i>
Date	6 APRIL 2017
Capacity	APPLICANT'S SOLICITORS

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

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14)

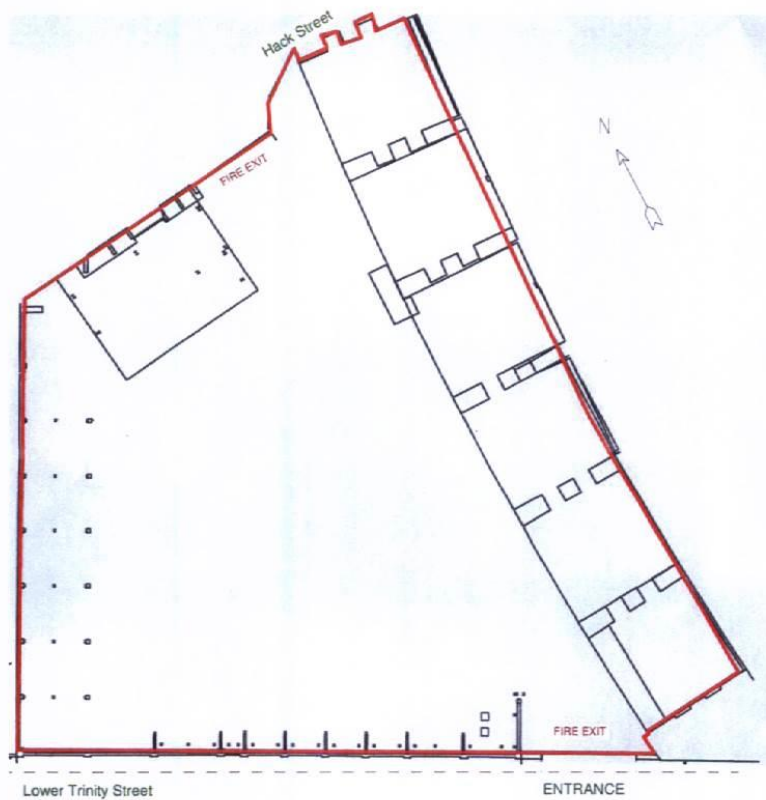
MR ANDREW POTTS  
WRIGHT HASSALL LLP  
OLYMPUS AVENUE

Post town	LEAMINGTON SPA	Postcode	CV34 6BF
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			

#### Notes for Guidance

- 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.
- In terms of specific regulated entertainments please note that:

This plan is an indicative layout only and will be subject to change so far as stages, toilets, bars, fire exits and means of entry to the premises are concerned. All will be determined at a Safety Advisory Group Meeting on each occasion the whole of the premises is used either on its own or in conjunction with other premises.



18 -19 Hack Street Birmingham  
Scale 1:500  
dwg . No 801/1  
March 2010



**BIRMINGHAM CITY COUNCIL**

**LICENSING SUB-COMMITTEE A**

**30 JANUARY 2017**

**The Arena, 18 – 19 Hack Street, Birmingham, B9 4AH**

That, having reviewed the premises licence held under the Licensing Act 2003 by Bow Leasehold Limited in respect of The Arena, 18 – 19 Hack Street, Birmingham, B9 4AH upon the application of Chief Constable of West Midlands Police, this Sub-Committee hereby determines to:

- 1. SUSPEND LICENCE FOR THREE MONTHS, AND**
- 2. REMOVE DESIGNATED PREMISES SUPERVISOR (“DPS”)**

**SUSPEND LICENCE**

That the licence be suspended for a period of three months, in order to promote the prevention of crime and disorder/public safety/the prevention of public nuisance objectives in the Act.

The Sub-Committee's reasons for suspending the licence are due to concerns by West Midlands Police in relation to the matters set out within the Review Application and Grounds for the Review dated the 8 December 2016. It was evident from representations from both West Midlands Police and the Premises Licence Holder's legal representative, that there was some consensus between them on the Premises Licence being suspended, given that the premises undertook licensable activities on the 19 November 2016 in breach of the conditions attached to the Licence, or imposed as a result of the Safety Advisory Group recommendations prior to the event taking place.

The Sub Committee noted that the Premises Licence Holder's legal representative was of the opinion that a “modest suspension of the licence” was appropriate in order to address the matters set out within the Police evidence. The Police were quite clear that the Premises Licence Holder was breaching more than one condition on the Licence as a result of opening the venue on the 19 November 2016, as set out in the statement of Police Sergeant, Williams. The Police were currently considering whether they would prosecute the Premises Licence Holder in respect of the breach of conditions.

The period of suspension was deemed reasonable and appropriate in order for the Premises Licence Holder to work with the Police and review the existing Conditions of Licence, the policies and procedures the Venue operates, in particular those that may relate to risk assessments and contingency strategies to be deployed at the premises, when for whatever reason, the premises believes that it needs to consider the use of a “dynamic risk assessment” for any Event. The Sub Committee were of the view that during the period of suspension, the

Premises Licence Holder would jointly determine with the Police, whether any of the existing Conditions attached the Licence would need to be modified in order to properly promote the Licensing objectives, and if necessary, whether these could be included within the Licence as part of the existing SAG process, or as a result of an application to vary the premises licence before the end of the suspension period.

### **REMOVE DESIGNATED PREMISES SUPERVISOR (“DPS”)**

That Richard McGee be removed as the designated premises supervisor, in order to promote the prevention of crime and disorder, public safety and the prevention of public nuisance objectives in the Act.

The Sub-Committee's reasons for removing the designated premises supervisor are due to concerns around the failure of the DPS, as the person legally responsible for the day to day management of running the premises by the Premises Licence Holder, to ensure that the premises could operate in accordance within the confines of the law, and in accordance with the Conditions imposed on the Licence.

Although the Sub Committee had heard evidence on behalf of the Premises Licence Holder, it's Security Team, and a Consultant on Recreational Drug Use, it had heard no compelling evidence as to why the fundamental failure in ensuring that there were the agreed number of drugs dogs at the event was not complied with. The Sub Committee was not convinced that this was simply down to an “administrative error” on the part of the DPS.

The Event on the 19 November 2016 was sufficiently high risk to warrant a Safety Advisory Group Meeting, between a number of key stakeholders (including the Police, Fire Service, and Ambulance Service). In accordance with the existing premises licence, any Recommendations from the SAG meeting would become licensing conditions for the event. The need for drug detection dogs was highlighted by the Police on at least three prior SAG meetings in 2016, as well as on the 10 November in respect of the event on the 19 November 2016. It was therefore a Condition which the DPS was well aware of, and its significance to the event on the 19 November.

### **Security Personnel**

Members of the Sub Committee felt that the Premises Licence Holder should as part of the suspension review referred to above, consider the existing arrangements with its Security Provider. They felt that although the ultimate decision to open the venue on the 19 November 2016 in breach of the conditions on the premises licence was made by the DPS, he had regard to the Recommendations of the Security Firm, who were convinced that the appropriate decision at the time was to open the premises to the public under what it called a “dynamic risk assessment”. The Sub Committee had heard evidence from the Police that the use of such risk assessments, and the circumstances under which it was appropriate to do so, was limited to a number of exceptional circumstances. In the Police's opinion, no such circumstances presented themselves on the 19 November 2016.

The Sub-Committee gave consideration as to whether it could modify the conditions of the licence as proposed by the licence holders legal representative, but were not satisfied given the evidence submitted, that the licensing objectives would be properly promoted by modifying the conditions of licence as proposed, in isolation.

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 the applicant, the premises licence holder, their legal adviser and other persons.

All parties are reminded that under the provision 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 date of notification of the decision.



## **BIRMINGHAM CITY COUNCIL**

**LICENSING  
SUB COMMITTEE A  
30 JANUARY 2017**

**MINUTES OF A MEETING OF  
LICENSING SUB COMMITTEE A  
HELD ON MONDAY 30 JANUARY 2017  
AT 0930 HOURS IN COMMITTEE  
ROOM 1, COUNCIL HOUSE,  
BIRMINGHAM**

**PRESENT:** - Councillor Barbara Dring in the Chair

Councillors Bob Beauchamp and Nagina Kauser

**ALSO PRESENT**

David Kennedy, Licensing Section  
Sanjeev Bhopal, Committee Lawyer  
Tayyibah Daud, Committee Manager

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**NOTICE OF RECORDING**

01/300117 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there were confidential or exempt items.

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**APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

02/300117 There were no apologies or nominee members.

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**THE ARENA, 18 – 19 HACK STREET, BIRMINGHAM, B9 4AH – LICENSING  
ACT 2003 – PREMISES LICENCE REVIEW**

The following persons attended the meeting.

**On behalf of the applicant**

Andrew Potts – Solicitor

Richard McGee – Designated Premises Supervisor

**Licensing Sub Committee A – 30 January 2017**

Lennard Copping – Freedom Security

Marc Blanchette – Consultant on Recreational Drug Use

**Making Representations in respect of the application**

PC Abdool Rohmon – West Midlands Police

Following introductions by the Chairman, the main points of the report were outlined by David Kennedy, Licensing Section.

(See document No. 1)

The following evidence bundle was submitted by West Midlands Police  
(See document no.2).

PC Rohomon, in presenting the case on behalf of the Police and in response to questions from Members, made the following points:-

1. The premises can be viewed as a high profile premises in Digbeth, as it attracts large amount of crowds especially in regards to drugs.
2. An Expedited Review was served on the premises in July 2016, as an outcome to the threat the premises had imposed to public safety and crime and disorder.
3. Numerous conditions have been attached to the premises licence as a result of the Expedited Review served on the premises last year.
4. The conditions attached to the licence are precise and clear meaning there is no misunderstanding on how they should be implemented.
5. As a condition of the licence, the premises must call a Safety Advisory Group Meeting (SAG), where any conditions set in regards to an event at the premises, shall become licensing conditions for the event.
6. In addition, regardless of the conditions set in a SAG meeting, the premises licence imposes the condition that a minimum of one drugs dog must be used by the premises.
7. On the 10<sup>th</sup> October 2016 a SAG meeting was attended by SGT Williams. A dot plan was presented illustrating that there would be 60 security door staff at the premises that night.

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**Licensing Sub Committee A – 30 January 2017**

8. It was stressed that the documentation provided at the SAG meetings are what the police rely on and expect the premises to comply with whilst they are open.
9. Referring to SGT Williams statement, at 2000 hours on the night of the event, SGT Williams visited the premises and was informed by Mr Coppage that the dogs have not been booked as a result of an administrative error.
10. It was stated that one drugs dog would be available at 1000 hours.
11. SGT Williams informed, Mr Coppage, that if the premises opened to the public without a drugs dog, they would be in breach of their licence.
12. There was no clear explanation provided by the premises in regards to the administrative error, as the licence condition stated that one drugs dog should be present when the premises are open to the public.
13. Referring to Mr Coppage's statement in the bundle, it was stated that 22% of the public were able to enter the premises without being searched by a drugs dog. Meaning, hundreds of individuals entered the premises without having adequate security checks done.
14. A medical emergency was reported as a male, with a heart condition, had consumed drugs. The individual was escorted to hospital.
15. The premises, agreed to have a larger tent then previous events, as at the SAG meeting it was discussed the tents at previous events had been too small. However, the tent on this occasion was half the size it should have been.
16. West Midlands Police's trust in the premises had lowered massively as the premises have been through all the stages and yet have failed to comply with conditions of their licence.
17. The CCTV system at the premises on that night was on hire and the footage was only available for 7 days. This also breached the licensing conditions, as the premises are conditioned to have CCTV storage for a minimum of 28 days.
18. West Midlands Police have tried to work closely with the premises, trying to remedy and make the premises better as they understand the importance of the venue to the area.
19. West Midlands Police are willing to agree to the third proposed condition, however are in disagreement with the first and second condition.
20. The proposed conditions by the applicant were not going to make any difference. The premises have not been able to adhere to the conditions that have been attached at the expedited review and have repeatedly undermined the licensing objectives.

**Licensing Sub Committee A – 30 January 2017**

The following respondent's document was submitted by the legal representative on behalf of the Premises Licence Holder :- (See document no.3).

Andrew Potts, in presenting the case on behalf of the Licence Holder and in response to questions from Members, made the following points:-

1. It is admitted by the premises that the licensing condition in regards to having four drugs dogs that night was breached by the premises.
2. During the night of the event Mr Coppage was in dialogue with SGT Williams as to what the best course of action would be.
3. Mr Coppage manages the door security and is up to him how much door staff should be employed. There was 60 door staff employed at the event.
4. Whilst briefing with security before the event, it became apparent no drugs dog were available.
5. It was confirmed that one drugs dog would be available, later that night.
6. Referring to a typed up statement Mr Coppage stated after seeing approximately 200 - 300 people in the queue in freezing conditions and that majority of these people were younger adults who do not have much clothing on. It was believed the best course of action at that time was to open the premises.
7. Mr Coppage asked the youths to move to another venue, however, they refused to move.
8. After looking at the licensing objectives including public safety it was two factors which influenced Mr Coppage to allow the event to carry on. Firstly, the issue of adverse weather and the lack of public safety and police resources in the area of Digbeth.
9. There had been severe disorder, including incidents with various gangs, in the area which influenced his decision.
10. Mr Coppage stated, he followed The Home Office's 1998 Dynamic Risk Assessment approach as despite the conditions one should view that an exception to ordinary happens.
11. The premises that night had a heated marquee, a fully enclosed tent was provided.
12. Mr Coppage did not have the duty to book the dogs.
13. A drugs dog arrived at the premises 0115 hours after the event had started.

Mr Bhopal, the Committee Lawyer, stressed that as Mr Coppage had referred to

**Licensing Sub Committee A – 30 January 2017**

a typed statement that was on his mobile phone, this statement had not been served on the Police as well as Members prior to the meeting. Similarly, the information in regards to the potential safety risk in the area had not been stated in the control log or in the appellants bundle. It was a concern that the police could be at a disadvantage and Mr Potts was advised, whilst presenting the case that no further new information, which had not been served on all parties, to be disclosed.

14. Extra measures were implied such as keeping the security guards on that would normally leave as well as keeping the drugs dog on longer than intended in the toilet area.
15. The opening of the premises did not have any financial gain for the premises it was more the concern of public that influenced the decision to open the premises.
16. The management plan was recorded through the event log.
17. It is accepted that if the dog was there at the opening of the event then more individuals would be sent to the enhanced area.
18. Referring to the report provided in the bundle, Mr Jeffries, a specialist paramedic confirmed that the conditions were very cold that night and that the event generally ran well.
19. Mr Coppage states it was not his responsibility to determine whether or not the premises should open, but discussing with the DPS, Mr McGee, they decided to open the premises.
20. Mr Blanchette is a drug practitioner who is present at the premises when there are any large events at the Arena.
21. Mr Blanchette stressed that many young adults spend money to follow a particular DJ, therefore it was slightly unrealistic to believe that these young adults in the queues would have moved to another venue.
22. The decision was supported by Mr Blanchette to avoid public disturbance.
23. As a result of the decision, Mr Blanchette was personally there at the entrance and supported the security staff. He was not only in the robust searches but provided support for customers.
24. When the drugs dog arrived, Mr Blanchette worked closely with the dog handler. Any individuals identified had the opportunity to have a brief intervention with Mr Blanchette.
25. The SAG meeting was attended by Mr Coppage, a member of security staff and the premises Licence Holder. The DPS was not present at the meeting.
26. Usually if there are any changes the SAG are notified. As usually discretion

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can be ensued if something needs to be changed. However, on this occasion the SAG could not be notified as the problem came up that night.

27. In regards to previous SAG meetings, the only issue which arose was the lack of the detail in the event plan.

28. The Sub-Committee were concerned to see what view the police had in regards to a dynamic risk assessment in practice. PC Rohomon stated he was a qualified risk assessor. The conditions of the licence are set and are not flexible meaning if something occurs which is outside the scope of the ordinary, the conditions must still be adhered too.

Mr Kennedy stated, that in regards to undertaking a dynamic risk approach alongside addressing the risk of crowds not dispersing in the area. The premises could have brought the customers into the marquee and not provided any licensable activities until they were able to put them through the conditioned security measures.

In summing up, Mr Potts stated that it was a total exceptional set of circumstances that night. The control measures put in the place were proportionate to the decision of opening the premises. It should be noted that only one incident occurred that night. There were over 300 people in the queue that had to be addressed. There was no question of financial gain, when opening the premises; it was solely to do with the safety of the public. Mr McGee, the DPS, will have the responsibility of ordering the dogs in full advance of any event. The three proposed conditions are rigid and state that no matter what circumstance occurs they will be adhered too. A suspension is being sought of the licence, to allow there to be adequate time to check matters that require attention.

In summing up, PC Rohomon reiterated the control log merely mentioned that no dogs are present, there is no circumstances stated as to why. The original statement by Mr Coppage states that adverse weather was the main factor to open the premises. SGT Williams statement makes it clear that Mr Coppage and the DPS knew if they carried on with the event, the premises would be in breach of their Premises Licence. There was a clear financial gain, as the premises could have let customers into the marquee, served no alcohol and provided no regulated entertainment. However, the premises chose to start the event and carry on with licensable activities, without adequate security measures. The verbal evidence presented in regards to risk the area imposed to the public should be disregarded as it is not included in the statement and control log similarly it has not been mentioned elsewhere that Mr Blanchette was present at the door when customers were entering the premises. The proposed conditions are same as to what are currently are on the licence. The premises have demonstrated that they are not capable enough to adhere to the conditions and that the only suitable outcome is a suspension or revocation of the licence.

At 1250 hours, the Chairman requested all present, with the exception of Members, the Committee Lawyer and the Committee Manager to withdraw

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from the meeting.

After an adjournment, all parties were recalled to the meeting at 1421 hours and the decision of the Sub-Committee was announced as follows:-

03/300117

**RESOLVED:-**

That, having reviewed the premises licence held under the Licensing Act 2003 by Bow Leasehold Limited in respect of The Arena, 18 – 19 Hack Street, Birmingham, B9 4AH upon the application of Chief Constable of West Midlands Police, this Sub-Committee hereby determines to:

- 1. SUSPEND LICENCE FOR THREE MONTHS, AND**
- 2. REMOVE DESIGNATED PREMISES SUPERVISOR (“DPS”)**

**SUSPEND LICENCE**

That the licence be suspended for a period of three months, in order to promote the prevention of crime and disorder/public safety/the prevention of public nuisance objectives in the Act.

The Sub-Committee's reasons for suspending the licence are due to concerns by West Midlands Police in relation to the matters set out within the Review Application and Grounds for the Review dated the 8 December 2016. It was evident from representations from both West Midlands Police and the Premises Licence Holder's legal representative, that there was some consensus between them on the Premises Licence being suspended, given that the premises undertook licensable activities on the 19 November 2016 in breach of the conditions attached to the Licence, or imposed as a result of the Safety Advisory Group recommendations prior to the event taking place.

The Sub Committee noted that the Premises Licence Holder's legal representative was of the opinion that a “modest suspension of the licence” was appropriate in order to address the matters set out within the Police evidence. The Police were quite clear that the Premises Licence Holder was breaching more than one condition on the Licence as a result of opening the venue on the 19 November 2016, as set out in the statement of Police Sergeant, Williams. The Police were currently considering whether they would prosecute the Premises Licence Holder in respect of the breach of conditions.

The period of suspension was deemed reasonable and appropriate in order for the Premises Licence Holder to work with the Police and review the existing Conditions of Licence, the policies and procedures the Venue operates, in particular those that may relate to risk assessments and contingency strategies to be deployed at the premises, when for whatever reason, the premises believes that it needs to consider the use of a “dynamic risk assessment” for any Event. The Sub Committee were of the view that



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during the period of suspension, the Premises Licence Holder would jointly determine with the Police, whether any of the existing Conditions attached the Licence would need to be modified in order to properly promote the Licensing objectives, and if necessary, whether these could be included within the Licence as part of the existing SAG process, or as a result of an application to vary the premises licence before the end of the suspension period.

#### **REMOVE DESIGNATED PREMISES SUPERVISOR ("DPS")**

That Richard McGee be removed as the designated premises supervisor, in order to promote the prevention of crime and disorder, public safety and the prevention of public nuisance objectives in the Act.

The Sub-Committee's reasons for removing the designated premises supervisor are due to concerns around the failure of the DPS, as the person legally responsible for the day to day management of running the premises by the Premises Licence Holder, to ensure that the premises could operate in accordance within the confines of the law, and in accordance with the Conditions imposed on the Licence.

Although the Sub Committee had heard evidence on behalf of the Premises Licence Holder, it's Security Team, and a Consultant on Recreational Drug Use, it had heard no compelling evidence as to why the fundamental failure in ensuring that there were the agreed number of drugs dogs at the event was not complied with. The Sub Committee was not convinced that this was simply down to an "administrative error" on the part of the DPS.

The Event on the 19 November 2016 was sufficiently high risk to warrant a Safety Advisory Group Meeting, between a number of key stakeholders (including the Police, Fire Service, and Ambulance Service). In accordance with the existing premises licence, any Recommendations from the SAG meeting would become licensing conditions for the event. The need for drug detection dogs was highlighted by the Police on at least three prior SAG meetings in 2016, as well as on the 10 November in respect of the event on the 19 November 2016. It was therefore a Condition which the DPS was well aware of, and its significance to the event on the 19 November.

#### **Security Personnel**

Members of the Sub Committee felt that the Premises Licence Holder should as part of the suspension review referred to above, consider the existing arrangements with its Security Provider. They felt that although the ultimate decision to open the venue on the 19 November 2016 in breach of the conditions on the premises licence was made by the DPS, he had regard to the Recommendations of the Security Firm, who were convinced that the appropriate decision at the time was to open the premises to the public under



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what it called a "dynamic risk assessment". The Sub Committee had heard evidence from the Police that the use of such risk assessments, and the circumstances under which it was appropriate to do so, was limited to a number of exceptional circumstances. In the Police's opinion, no such circumstances presented themselves on the 19 November 2016.

The Sub-Committee gave consideration as to whether it could modify the conditions of the licence as proposed by the licence holders legal representative, but were not satisfied given the evidence submitted, that the licensing objectives would be properly promoted by modifying the conditions of licence as proposed, in isolation.

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 the applicant, the premises licence holder, their legal adviser and other persons.

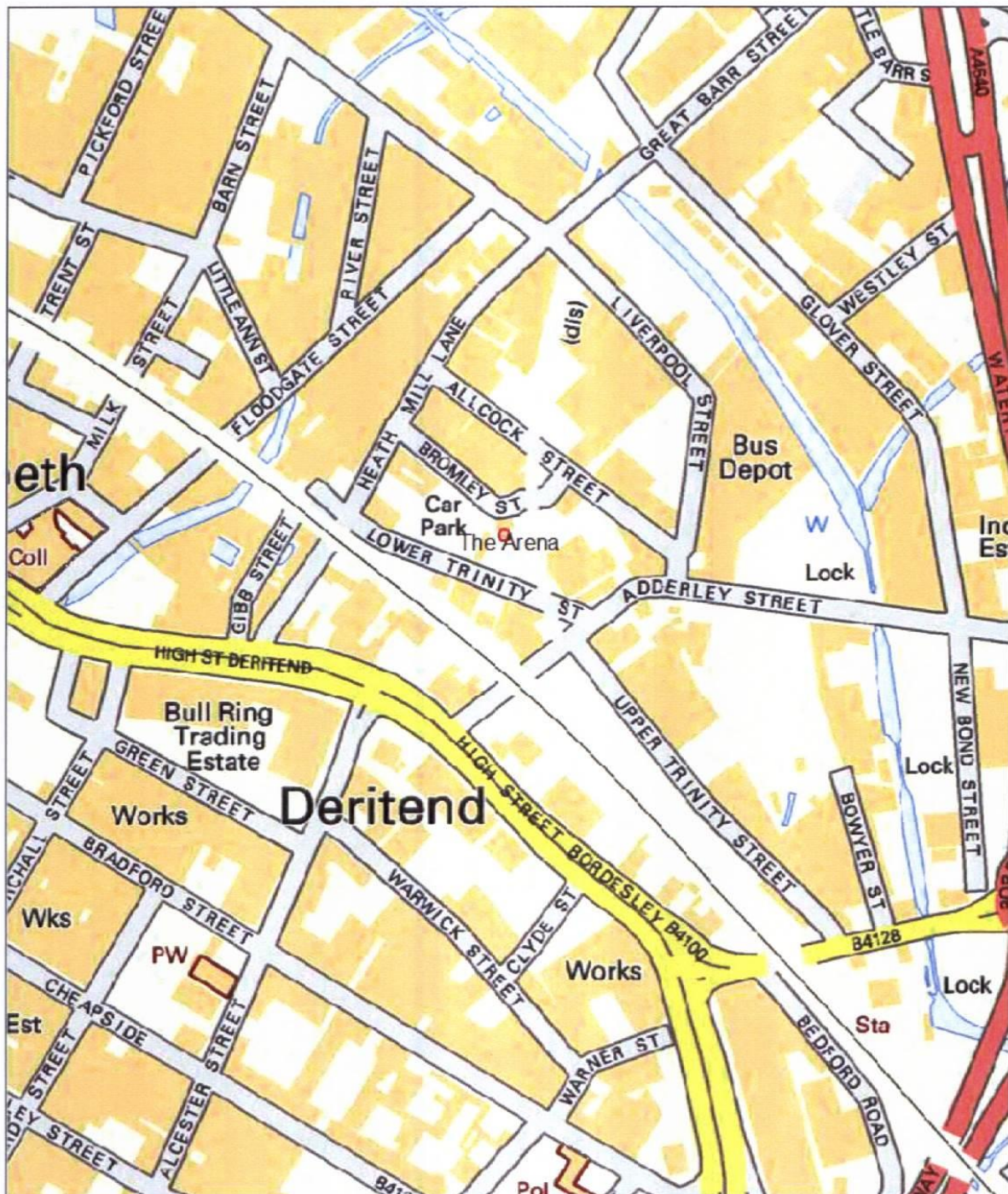
All parties are reminded that under the provision contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates Court, such an appeal to be made within twenty-one days of date of notification of the decision.

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The meeting ended at 1430 hours.

  
CHAIRMAN

## Appendix 4



**Birmingham City Council**

Map Created By:

Notes

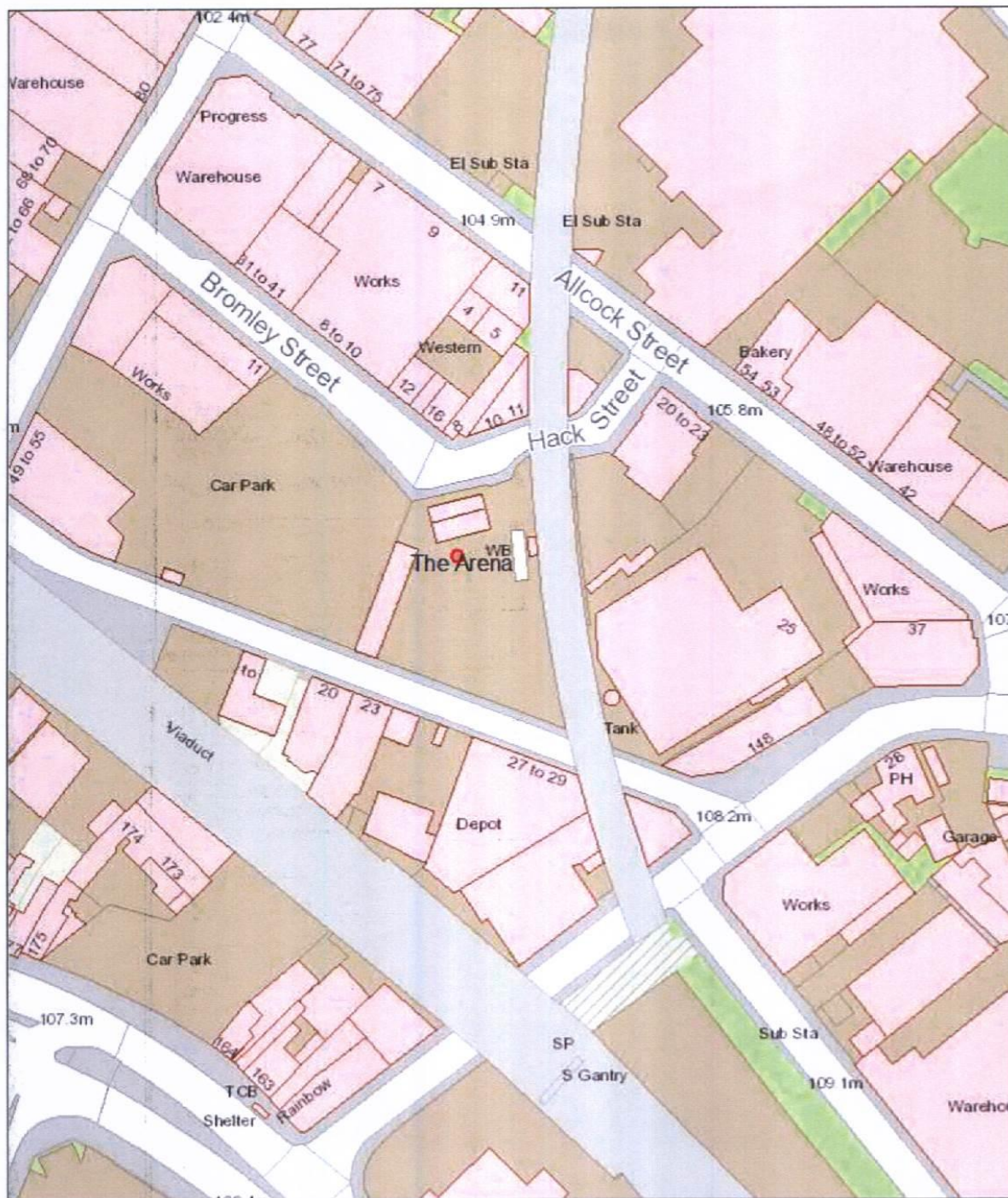
Date of Map Creation: 16/05/2017



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**Birmingham City Council**

Map Created By:

**Notes**

Date of Map Creation: 16/05/2017



Scale:  
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