

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A

MONDAY, 24 FEBRUARY 2020 AT 09:30 HOURS
IN ELLEN PINSENT ROOM, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

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

A G E N D A

1 NOTICE OF RECORDING

Chairman to advise meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 DECLARATIONS OF INTERESTS

Members are reminded that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

3 APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3 - 32

4 MINUTES

To confirm and sign the Minutes of the meeting held on 13 January 2020.

To note the public part of the Minutes of the meeting held on 3 February 2020.

33 - 84

5 LICENSING ACT 2003 PREMISES LICENCE – REVIEW LA BUFET, 136 BOULTON ROAD, BIRMINGHAM, B21 0RE

Report of the Interim Assistant Director of Regulation and Enforcement.
N.B. Application scheduled to be heard at 09:30am

6 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.

7 **EXCLUSION OF THE PUBLIC**

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

Exempt Paragraph 3

PRIVATE AGENDA

1 **MINUTES**

To note the private part of the Minutes of the meeting held on 3 February 2020 and to confirm and sign the Minutes as a whole.

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

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

BIRMINGHAM CITY COUNCIL

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| LICENSING SUB - COMMITTEE A - 13 JANUARY 2020 |
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**MINUTES OF A MEETING OF
LICENSING SUB-COMMITTEE A HELD
ON MONDAY 13 JANUARY 2020
AT 0930 HOURS IN ELLEN PINSENT ROOM,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Philip Davis in the Chair;

Councillors Mary Locke and Bob Beauchamp

ALSO PRESENT:

Bhapinder Nandhra – Licensing Section
Joanne Swampillai – Legal Services
Katy Townshend – Committee Services.

NOTICE OF RECORDING

01/130120 The Chairman advised the meeting that members of the press/public may record and take photographs except where there are confidential or exempt items.

DECLARATIONS OF INTERESTS

02/130120 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests arising from any business discussed at the meeting. If a disclosable pecuniary interest are declared a Member must not speak or take part in that agenda item. Any declarations to be recorded in the minutes of meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

03/130120 Apologies were submitted on behalf of Councillor Nicky Brennan and Councillor Bob Beauchamp was the nominee Member.

**LICENSING ACT 2003 PREMISES LICENCE – REVIEW – SELLY ACRE NEWS,
1049-1051 PERSHORE ROAD, STIRCHLEY, BIRMINGHAM, B30 2YH**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 1)

The following persons attended the meeting.

On behalf of the Applicant

Paul Ellson – Trading Standards (TS)

On behalf of the Premises

Changez Hussain – Premises Licence Holder (PLH)

Patrick Burke – Agent – PMB Licensing

Those making representations

PC Abdool Rohomon – West Midlands Police (WMP)

Chris Jones – West Midlands Police (WMP)

Gary Callaghan – Birmingham City Council - Licensing Enforcement Officer (LEO)

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The Chairman outlined the procedure to be followed during the meeting and enquired as to whether there were any preliminary points at which stage Gary Callaghan (LEO) advised that he knew Mr Hussain as he was also a taxi driver.

Further, the Chairman also informed all parties that Cllr Locke represented Stirchley, however, this premises was situation in the neighbouring ward and therefore, there were no conflicts. The Chairman was just ensuring transparency.

Bhapinder Nandhra, Licensing Section, outlined the report.

Mr Paul Ellson, on behalf of TS made the following points: -

- a) That they received a complaint from WMP on the 27th August 2019 regarding several shops in Selly Oak who were selling illicit tobacco. Selly Acre News was one of the premises alerted to them by WMP. They visited the premises and upon arrival found an employee in the shop of the name 'Zamar Hussain'. Changez Hussain was the PLH and DPS at the time of the inspection.
- b) The male employee was asked if he had illicit tobacco in the shop and he was also told what constituted as illicit tobacco to avoid confusion. He said that there was no illicit tobacco in the shop.
- c) TS carried out a full investigation of the shop, and found 1 sleeve of Richmond cigarettes, a Russian cigarette sleeve, 1 Regal cigarette sleeve

and 3 packs of Benson and Hedges cigarettes and some Russian hand roll tobacco. All of them were illicit.

- d) Further during their inspection, they also found Viagra under the counter, approximately 300 tablets.
- e) The employee stated that the tobacco was for personal use and the tablets were for a friend. However, TS believed if that was the case then they should not have been in the premises or anywhere near a licensed premise. Additionally, TS were concerned that the employee had said that there were no illicit cigarettes on the premises, yet they found multiple packs hanging in a plastic bag right in front of the employee.
- f) That the illicit cigarettes breached two major pieces of legislation, namely the Standardised Packaging of Tobacco Products Regulations 2015, and the Tobacco and Related Products Regulations 2016. No UK Excise Duty had been paid and the packets bore Russian Cyrillic script.
- g) Further, the cigarettes were illicit, non-duty paid with Russian writing on them and should not make it into the UK market.
- h) Mr Hussain claimed they were for personal use; however, it was unusual that the cigarettes were of all different brands. Moreover, the excuse Mr Hussain gave was the normal excuse most persons gave when they had been found in possession of illicit cigarettes.
- i) That the PLH should have exercised more control over the premises and staff to prevent these incidents ever occurring.
- j) The cigarettes had ended up in the shop and should never have been in there in the first place.
- k) On 25th September 2019 WMP visited the premises and seized a further quantity of Viagra medication. This type of medication should not be sold by an off licence and should not have been sold to the public without a medical history assessment.
- l) It was a concern that the purchase of the medication to sell to the public was informing a criminal network underneath.
- m) He was aware that the medication could be purchased off the internet.
- n) The tablets were being sold out of the packet thus they had no warnings or information provided with them.
- o) That the opinion of TS, was that the Committee should consider all options open to them.
- p) In his view the premises was “shambolically run” and chaotic.
- q) That Mr Hussain didn’t really know what was going on, he provided the usual excuses when the medication was found inside his premises. The

PLH was exercising a “hands-off approach” and was clearly having nothing to do with the premises.

- r) He could not locate a refusals book.

In answer to Members questions Mr Ellson made the following points: -

- a) That Mr Changez Hussain was the PLH and was present at the meeting.
- b) That WMP informed TS that they had received a complaint.
- c) That the small amount of illicit tobacco found was in a bag near the front of the counter and indicated to them that it was being sold over the counter.
- d) The medication was known as Viagra and could only be dispensed at a pharmacy, whilst it did not require a doctor's prescription there was a process in terms of assessing its suitability for the patient. Moreover, it carried risks and therefore, needed to be dispensed in a responsible way.
- e) That ‘anything’ was available through the internet, but the problem with buying medication over the internet was that it was not always clear what was in it and where the medication originated from.
- f) That the tablets he found were in a big bag with a band tied around the top.

PC Rohomon, on behalf of WMP, made the following points: -

- a) That when they received the application for review, they were already aware of the premises. WMP had visited the premises on 25th September 2019 and they found some Viagra medication but also some other things.
- b) The MHRA [Medicines and Healthcare Products Regulatory Agency] regulated medication like Viagra and they also issued guidelines. When WMP visited the premises it was 26 days after TS had carried out their visit. The premises had nearly a month to get themselves “sorted”, had a warning and yet still there were problems. They were not complying with the conditions on the licence, such as CCTV which had only been running for 20 days, when asked to go beyond 20 days it was not possible.
- c) PC Rohomon asked about other conditions on the premises licence.
- d) The man behind the till during WMP visit identified himself Val he said he had been working there for only 3 months and had not received any training. Further, PC Rohomon asked Mr Changez Hussain for proof of training, which he was not able to provide.
- e) WMP found signatures in the refusals book and till entries from Val from 18 months prior, so he had been working there longer than 3 months.
- f) Whilst carry out their visit, WMP came across an “old Hamlet cigar tin” underneath the till. In it was Sildamax (the same blue pill that TS had found 30 days before). They also found £72.00 in cash, which was said to be “savings”.

- g) Behind the till they also found and confiscated a baseball bat and golf club, which Mr Hussain said were simply items for sale. It was concerning that they were right behind the till, in an “easy to grab” location. (WMP had the bat and golf club in evidence bags for Members to see).
- h) WMP had been online to find out more about the tablets found, which confirmed they were to be sold by pharmacies and were also very expensive 4 tablets for around £20.00. The sale of such tablets was considered by WMP as easy money for the premises, especially sold as singles.
- i) The tablets had no warning labels or information with them.
- j) When PC Rohomon challenged Mr Changez about the pills, he was very laid back about them.
- k) That clearly Mr Changez was not in control and the staff did what they wanted.
- l) That the Home Office Guidance issued under Section 182 of the Licensing Act 2003 talks about engagement, solving problems together, but after the first visit they still hadn't sorted the premises out and that indicated greed.
- m) That the premises couldn't even get the basics right such as, CCTV and staff training.
- n) WMP had no confidence in the PLH.

In answer to Members questions PC Rohomon made the following points: -

- a) That they checked the store rooms during the visit and very little was in them.
- b) The premises sold a huge amount of alcohol.
- c) Due to the breaches of the conditions of licence they had to stop the premises selling alcohol.
- d) The recordings for the CCTV should have gone back 28 days or 31 depending on the exact wording of the condition on the licence. It was normal that the engineer would put a buffer of a couple of days over to ensure that it would comply with the conditions.
- e) There were no recordings for the first 11 days on the CCTV.
- f) That he could not be sure whether it was a purposeful attempt to deceive, but more than likely he PC Rohomon felt it was just due to the shambolic lack of control and lack of regard for the licence conditions.
- g) That he did not get the impression that Mr Changez was in charge of the premises.

Mr Gary Callaghan, on behalf of Licensing Enforcement, made the following points: -

- a) That as a result of the review by TS they visited the premises and put up a Blue Notice.
- b) That they had visited the premises twice as the first time the application wasn't done properly.
- c) One Blue Notice was in the shop window the other was on the lamppost, Mr Changez was made aware that the premises was under review.
- d) They made contact with the local police officer to make sure they were compliant with the conditions of licence.
- e) He visited the premises on the 10th December 2019 whilst the premises was under review and identified a member of staff called Zakar Hussain (discrepancy in the name of the staff from the PC, he said maybe the officer misheard).
- f) That the premises licence should be displayed for the general public to see. When Mr Callaghan asked to see the full licence with conditions, Mr Zakar Hussain couldn't find it. He phoned Mr Changez who said he would come to the shop, however, when he arrived, he still could not locate the premises licence.
- g) That he told Mr Zakar Hussain the conditions and nearly all of them were non complaint. No incident register, no training records.
- h) That it was a family business and Mr Zakar Hussain was the PLH's brother.
- i) The inspection should have been 15 minutes, but instead it was over an hour and 10 minutes. It was extremely poor.

In answer to Members question Mr Gary Callaghan made the following points: -

- a) That a summary licence should have been on display for the public, and the full licence should have been produced on request.
- b) There was no staff registry and staff training records should have been easily produced.
- c) That he believed there were possibly 3 employees.

Mr Patrick Burke on behalf of the PLH, made the following points: -

- a) That Mr Changez had been a taxi driver for 20 years with no issues or complaints.
- b) That the premises was a family run business which was the financial support for his family and his brothers family.

- c) The bat and gold club were items for sale and were on display as being “for sale”. They also sold kitchen knives.
- d) The pills on the second visit were overlooked from the first visit, so Mr Changez wasn’t even aware they were even there.
- e) Mr Changez had realised that he had perhaps not been hands on and moving forward would like the Committee to consider the following conditions; personal licence holder to be present at all times, all staff at premises to hold a personal licence award as a minimum, short suspension of 1 month to allow time for Mr Changez to get everything in order and also complete his level 3 personal licence qualification.

In answer to Members questions, Mr Burke and Mr Changez made the following points: -

- a) Mr Changez advised that 3 persons worked at the premises and his daughter helped sometimes. Moreover, that he understood he had not “done right” but was going to step up and manage the premises.
- b) Mr Burke explained the personal licence course for the benefit of the Members.
- c) Mr Changez explained that his brother was just helping and wasn’t really working there all the time (hence the 18-month-old signatures). His brother had only been working for 3-4 months on a permanent basis.
- d) Mr Changez told the Committee how he had the business for 3 years. He was doing a management course, and everything was there during the last visit but he just didn’t have it all together, but it was all sorted.
- e) Mr Changez referred to the Hamlet box as a place used to store tips and the illicit tobacco was for personal use.

In summing up Mr Gary Callaghan, LEO, made the following points: -

- ❖ That the licence was first issued 22 May 2018.
- ❖ That he couldn’t see how further staff training would make any difference as that should already have been happening, but it wasn’t. He didn’t see how additional training would be of any benefit.

In summing up PC Rohomon, on behalf of WMP, made the following points: -

- ❖ That the excuse that the pills were just overspill from the first visit was inconsistent with what had been said at the time. Additionally, the tin being used as a box for tips was another inconsistency, yet the box was found under the counter. It didn’t add up.
- ❖ The fact they were caught on the first visit doing things wrong and yet nearly a month later they were still doing things wrong, it should have all been sorted after the first visit.

- ❖ The PLH had took his eye off the ball and the offer of a condition regarding staff training was something that was already on the licence and should have been happened yet wasn't.
- ❖ That the conditions regarding personal licence holders was just trying to detract responsibility away from the PLH.
- ❖ That the guidance issued under the Licensing Act 2003 was very succinct and breaching the CCTV condition should have been sorted within minutes. They should have been checking it every single day to make sure it was working in line with the conditions of the licence.
- ❖ That the management was shambolic.
- ❖ That the Licensing Objectives were part of the Level 2 personal licence qualification, therefore the Level 3 qualification was not going to teach them anything that they shouldn't already know.
- ❖ The problems that WMP and TS found upon visiting the premises were not going to be simply sorted by the PLH taking the Level 3 qualification. The PLH shouldn't have been selling illicit tobacco and drugs in the first place and he concurred with TS that the cigarettes would have been one brand only if they had been for personal use.
- ❖ WMP didn't believe the bat and golf club were for sale. There were also Cannabis grinders on sale and drug bags, which weren't illegal but led them to question how responsible the PLH was for the premises and the way it was operated.
- ❖ The PLH had been a taxi driver for some 25 years alongside running the family business with his brother. Why had he not sacked his brother – the PLH had offered nothing to the Committee to alleviate concerns or to address the issues.
- ❖ That if the Committee were not minded to revoke the licence, then suspension should be for more than 1 months, he recommended 3 months was more suitable. He added that the conditions didn't offer anything at all and that even removing the DPS wouldn't remove the PLH. However, if the Committee were minded to remove the DPS they could put a condition on to remove the DPS and the substitute must be to the satisfaction of WMP and TS.

In summing up Mr Paul Ellson, on behalf of TS, made the following points: -

- ❖ In his original submission he told the Committee there were approx. 300 Viagra tablets, however, when he got back to the depo there were 890 – a huge amount.
- ❖ That a licence to sell alcohol was a privilege and came with added duties and obligations.

- ❖ The Committee needed to remember that the shop sold mostly alcohol and a bit of food, therefore, it was the responsibility of the PLH and DPS to ensure they were compliant with the conditions on the licence.
- ❖ That the shop was chaos.
- ❖ They were caught once and then couldn't be bothered to correct the issues highlighted to them, so then they were caught again.
- ❖ The allegation that he may have missed something during his inspection, he did not recall seeing a Hamlet tin and it was not usual for shops to be taking tips in the middle of the year, maybe near Christmas.
- ❖ That if the brother went on a personal licence course, he hoped they taught him the difference between trust and lies, because TS felt he had lied about there not being illicit drugs in the premises when they were right in front of him.
- ❖ The shop was situated near a school.
- ❖ The pills found were not in original packets and that concerned them due to the safety information that would normally be provided with packaged tablets.
- ❖ The alcohol licence was a privilege not a right.
- ❖ That most of the things they needed to do were on the licence, so it was not difficult to get right.

In summing up Mr Burke, on behalf of the licence holder made the following points: -

- ❖ That Mr Hussain's brother had completed the personal licence course and was aware of his responsibilities.
- ❖ That the CCTV was fitted and was recording for 28 days but due to adding more cameras it effected the hard drive and that's why there was a problem.
- ❖ As soon as Mr Changez Hussain was aware, he couldn't sell alcohol he stopped and that was checked by officers.
- ❖ Since the review he was trying to get everything back on track.
- ❖ It was an effective measure to have a personal licence holder in the premises and staff that will have done the training. It would make a big difference.

At 1047 the meeting was adjourned and all parties with the exception of the Members, Committee Lawyer and Committee Manager withdrew from the meeting.

At 1108 the meeting was reconvened and all parties were invited to re-join the meeting and having taken into consideration the legal consequences of the withdrawal of the representations the Committee announced as follows:-

04/130120

RESOLVED:-

That having reviewed the premises licence held under the Licensing Act 2003 by Changez Hussain in respect of Selly Acre News, 1049-1051 Pershore Road, Stirchley, Birmingham B30 2YH, upon the application of the Chief Officer of Weights and Measures, this Sub-Committee hereby determines that **the licence be revoked**, in order to promote the prevention of crime and disorder and public safety objectives in the Act.

The Sub-Committee's reasons for revoking the licence are due to concerns expressed by the three Responsible Authorities, namely Trading Standards, West Midlands Police, and the Licensing Enforcement department of the City Council.

Trading Standards' submissions

Trading Standards observed that the shop was 'shambolically run' and in 'a state of chaos'. The 'state of chaos' had been observed by officers in every visit, and even after a warning had been issued. It had quickly become apparent to officers that the premises was not only failing to uphold the licensing objectives, but actively undermining them.

There were two main failings. The first was the discovery of illicit tobacco products behind the shop counter – a variety of brands, none of them compliant with Regulations, none of them in the correct packaging, and none of them with UK Excise duty paid. The second failing was the discovery of an erectile dysfunction medication called 'Sildamax' in a plastic bag on a shelf behind the shop counter – small blue tablets which were unpackaged (other than inside blister packs), and therefore without the manufacturer's box, instructions for use, or the warnings/side effects information leaflet.

Trading Standards explained that the sale and storage of illicit tobacco is a very serious breach; such products were of unknown provenance and usually associated with crime. It was quite unacceptable for any licensed operator in Birmingham to have procured this type of illegal product, through some unknown supplier, and for it to be found in a bag behind the counter in a local off-licence. The supply of illegal items is well known to be an activity of underground criminal networks which exchange all kinds of illegal products, fund more serious criminal enterprises and cheat revenue. They also undermine those legitimate businesses who do uphold the licensing objectives in Birmingham.

Equally unacceptable was the erectile dysfunction medication; this was potentially a significant public safety risk. Trading Standards advised that medicinal products, intended to treat specific health conditions, were not something that should ever be found in any small off-licence premises. Shop sales of such medications should only ever be via a pharmacist, who could ensure that they were suitable for the individual. Moreover, these small blue pills were again of unknown provenance, without the manufacturer's exterior packaging. The fact that they were in blister packs suggested that the shop was offering them to customers as single pills – but they would be sold without the manufacturer's leaflet/ instructions. Given the nature of the product, this was an obvious danger to public safety. It also showed

that the shop management and staff were irresponsible regarding public health, which was entirely incompatible with the promotion of the licensing objectives.

These two matters on their own were so serious that they would have given the Sub-Committee sufficient cause to revoke the premises licence. However, there were additional matters of concern.

Trading Standards were particularly unimpressed at Mr Hussain's management style. He had no control at all over his staff – particularly his brother, who was one of two people Mr Hussain employed in the shop. The conduct of the brother had been very poor, most noticeably in the answers he gave to officers during their visits.

When the brother was asked if he had any illicit tobacco products on the premises, he replied that he did not do that. 600 cigarettes of various brands, and 75g of hand-rolling tobacco, were then discovered in a Sainsbury's plastic bag, hanging from a hook behind the counter.

The brother's explanation for these illicit goods was that they were for his own personal use. This was not plausible given that they were located behind the shop counter and were of various brands, including some foreign brands.

When asked to explain the Sildamax pills, the brother replied that they were 'for a mate'. Given that the quantity which officers found behind the till on that occasion was 300 pills, that answer was difficult to believe. Trading Standards therefore issued the premises with a warning. The Sub-Committee accepted all the observations of Trading Standards.

West Midlands Police's submissions

The West Midlands Police visit was made 26 days after the Trading Standards visit. The Police agreed that the operating style that they observed during their visit to the shop was shambolic. The Police examined the conditions of the licence and observed to the Sub-Committee that the shop was in breach regarding various aspects – the requirements for CCTV were not being observed; nor were the requirements for staff training. These are elementary and simple issues for any premises licence holder, yet were not being done properly.

The Police discovered a baseball bat and a golf club behind the counter. The explanation given for these was that they were for sale to customers. This seemed improbable in a small off-licence shop, in which selling alcohol was the main focus of the business. The Police view therefore was that these two items were more likely to be weapons, undermining the promotion of the licensing objectives.

Furthermore, the Police were thoroughly unimpressed with the staff member behind the counter on this occasion. They described this person as 'cavalier' in his attitude. He was also untruthful in his answers. He stated that he had been employed in the shop for "three months", yet officers found records in the shop's Refusals Book, signed off by this employee, from 18 months ago.

A quantity of 45 of the Sildamax pills was found behind the counter – this time in a Hamlet cigar tin, together with some £72 in cash. The staff member stated that the 45 Sildamax pills were his own, and that the £72 was his own savings. Neither of these answers were plausible.

The Police were also unimpressed with the behaviour of Mr Changez Hussain himself. His management style was wholly inadequate. His answers to some questions alarmed the Police – when discussing the Sildamax, he confirmed that the pills were owned by the staff member, and stated that the staff member just did what he wanted with the pills. The Police were taken aback at this comment. When combined with the breaches of licence conditions, the Police found it necessary to remind Mr Changez Hussain that it was he, as the premises licence holder, who was the person in control of the premises. As such, he should have ensured that all recommendations of Trading Standards were put into effect immediately.

The Sub-Committee accepted all the submissions made by West Midlands Police. Members were particularly unamused that any licence holder should need to be advised by a Police Officer that he is the person responsible for operating.

Licensing Enforcement's submissions

Licensing Enforcement also noted the poor management of the shop during their visit to check compliance. A number of breaches were found, and it was striking that Mr Changez Hussain was even unable to locate the Premises Licence to produce it to an authorised officer when requested – one of the most elementary requirements for any licence holder.

The Licensing Enforcement visit was conducted on a date after Mr Hussain had been made aware of the forthcoming review hearing, and also some months after he had been reminded by Police that he was the person meant to be in control of the shop. The breaches which were found by Licensing Enforcement, and the inability to even produce the licence for inspection, did not inspire any confidence whatsoever that Mr Changez Hussain had been taking even a basic level of responsibility as operator. The Sub-Committee accepted all the submissions made by Licensing Enforcement.

Premises Licence Holder's submissions (via his agent)

The Sub-Committee gave careful consideration to the submissions made by Mr Changez Hussain and his agent, but was not remotely satisfied, given the evidence submitted by the responsible authorities, that the offer of voluntary conditions was sufficient to ensure that the licensing objectives would be properly promoted. In coming to this conclusion, the Sub-Committee was helpfully assisted by advice and recommendations from the responsible authorities.

The offer for staff to undertake licensing qualifications, made by Mr Hussain via his agent, was inadequate. Training was being proposed as the focus, but as all three of the responsible authorities observed, training requirements were already a condition of the licence, and clear breaches had already been noted by officers during the visits.

The Police noted that Mr Hussain's brother should have been dismissed; the Sub-Committee agreed that it was surprising that the brother had retained his employment. The Sub-Committee looked askance at the explanations given by Mr Hussain, his brother, and the other member of staff, all of which were unsatisfactory and many of which were difficult to believe.

The excuse given for the illicit products, namely that they were for 'personal use', was not accepted, but even if they were for personal use, it was the responsibility of Mr Changez Hussain to ensure that such items did not enter the premises, and to instruct his staff regarding the proper promotion of the licensing objectives. He had not done this.

During the meeting Mr Hussain stated that the explanation for the £72 cash in the Hamlet cigar tin was that it was "tips" given by customers. The staff member had originally described it to Police as his own personal savings. The Sub-Committee was doubtful whether either of these explanations were correct. There had been an overwhelming impression that the answers given to the responsible authorities, by all three persons associated with the shop, had not been truthful. The Sub-Committee was therefore of the view that it was impossible to have any confidence that such people would prioritise the licensing objectives even after undertaking the training courses which had been suggested as voluntary conditions by Mr Hussain's agent.

The view of Trading Standards, namely that Mr Hussain's management style was not simply a 'hands off' approach, but rather a failure to exercise any control whatsoever, was an accurate summary. It was also entirely correct to describe his operation as 'shambolic'. Mr Hussain (via his agent) accepted that he had "not been as hands-on as he should have been"; however, this was an understatement.

The licensing objectives were being undermined in a residential area with a school nearby. Accordingly, the only course was to revoke the premises licence.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the application for review, the written representations received, and the submissions made at the hearing.

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

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

**LICENSING ACT 2003 PREMISES LICENCE – REVIEW – D&B WINES 201
DUDLEY ROAD, WINSON GREEN, BIRMINGHAM B18 7QY**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document No. 1)

The following persons attended the meeting.

On behalf of the Applicant

Martin Williams – Trading Standards (TS)
Rupinder Sangma – Trading Standards (TS)

On behalf of the Premises

Marius Miclescu – Premises Licence Holder (PLH)
Walaa Jasim (Translator for PLH)
Mohammed Turay – Solicitor – Toussaint Solicitors
Adi-Romulus Ileana – Employee

Those making representations

PC Abdool Rohomon – West Midlands Police (WMP)
Chris Jones – West Midlands Police (WMP)

* * *

The Chairman asked for clarity as to the position of the translator. Mr Jasim confirmed he was the translator for the PLH who spoke Romanian.

The Chairman outlined the procedure to be followed during the meeting and enquired as to whether there were any preliminary points at which stage Mr Turay advised that in his clients statement there was reference to a fridge that the cigarettes were found in, they had a sketch to show the location of the fridge and he had a further document to submit (Document 3).

The Chairman enquired whether any of the parties had any objections to the additional documentation being served.

Mr Martin Williams (TS) advised that he had no issues so long as the it was accepted that the fridge was inside the premises.

All parties accepted the submissions from the TS officer.

The Chairman confirmed that the documents would be accepted.

The Chairman continued to outline the procedure and then invited Bhupinder Nandhra, Licensing Section, to outline the report.

Mr Martin Williams, on behalf of TS made the following points: -

- a) On the evening of 1st September 2019 a police officer found a girl unconscious due to alcohol consumption. She had been to D&B Wines and purchased wine and vodka from them. The girl was 15yo, 5ft tall and would never have passed a challenge 25 assessment.
- b) Further a complaint was raised by Birmingham TS and a joint visit with BCC Licensing Team was carried out. BCC Licensing Team issued a trader notice advising the premises that it was illegal to sell alcohol and cigarettes to underage persons and that a test purchase may be carried out. Officer Watts, LEO was concerned that the employee did not appear to speak

English and was unable to explain to the officers what his responsibilities were and whether he was selling alcohol or not.

- c) The PLH was not present at the time of the visit, and officers were advised that he was abroad.
- d) Furthermore, officers also had a meeting with the PLH's wife as they were still concerned regarding the operation of the premises and she was given further advice.
- e) Saturday 2nd November 2019, TS undertook a test purchase exercise with a 14yo girl volunteer. She was able to purchase a large bottle of WKD from the shop. Mr Adi-Romulus Ileana made the sale and did not ask her for ID or even ask her age.
- f) When he was questioned regarding the sale, he was unwilling to submit any explanation as to why he made the sale. Then another person attended in order to translate, and he said he was the brother of the PLH. Whilst TS were in the shop, they found counterfeit hand rolled tobacco in the fridge, which was a serious offence and had consequences.
- g) The premises was poorly run and TS did not have confidence that the shop could be operated in a responsible way.
- h) The girl found unconscious having consumed alcohol purchased from D&B Wines could have been a victim to other people and was extremely vulnerable being in a state like that out on the street. She should never have been able to purchase alcohol.
- i) That Mr Adi-Romulus Ileana would not cooperate or communicate with authorities and was not aware of the responsibilities under the Licensing Act.
- j) The premises licence was granted in 2017 and then a complaint was received about fake cigarettes and underage sales in 2018 and then in October 2018 a warning and a visit was done, and the officers witnessed 3 attempted sales for single cigarettes. Therefore, a trader's notice was issued on that occasion and an information pack was given to the premises regarding underage sales. Additionally, posters were given to the premises to help with the issues. PLH was not present on that occasion either.
- k) That in light of the history and problems, TS felt there was no alternative other than to revoke the licence.

In answer to members questions, Mr Williams made the following points: -

- a) That TS usually only responded to consumer complaints, so if they received information and intelligence then they visited the premises.

PC Rohomon, on behalf of WMP, made the following points: -

- a) That WMP were deeply disturbed that a 15yo girl had been put into safety as she was so drunk, she was vomiting all over herself. The alcohol was

purchased at D&B Wines and was consumed in the park. The premises had then also failed a test purchase exercise carried out by TS.

- b) WMP had submitted the 999 logs from the concerned parent who had been called to say her daughter was drunk at the park and there was an allegation of sexual assault. An ambulance had to be called to attend.
- c) WMP had major concerns that a 15yo girl was unconscious in a park in the city centre, she was incredibly vulnerable and was covered in her own vomit.
- d) The friend of the 15yo female said they purchased the alcohol from D&B Wines.
- e) WMP made a referral to TS whom then visited the premises to warn them about underage sales. The Licensing Act 2003 recommends that responsible authorities work with premises and provide help. WMP felt that the premises had been offered help and been advised numerous times.
- f) There were also concerns raised over how an employee who didn't speak very good English would challenge people or check someone's age.
- g) WMP were concerned over the premises operation that they arranged a meeting with the DPS and PLH, however the premises sent the PLH wife to attend and she was given the advice. The responsible authorities had done everything they could to make sure the premises were aware of the issues and concerns that they had; they had done the ground work.
- h) A test purchase was not easy to organise and yet, a 14yo girl was sold alcohol without any questions and subsequently added weight to what happened in September – why would the children lie about where they purchased the alcohol? The premises failed the test purchase having been given advice on two separate occasions.
- i) The employee said at the time of the test purchase he was distracted by someone acting suspiciously, yet there was no mention of that previously.
- j) The Committee should bear in mind that at the time of the test purchase when officers asked why he had sold to a minor, no explanation was given, yet months later after the review was issued, he suddenly said he was distracted.
- k) It was concerning that a person behind the till would become so distracted that a 14yo girl (4 years under the legal age of buying alcohol) could easily purchase alcohol.
- l) The volunteers used for test purchases were not allowed to wear make up and had to look their age. They were not allowed to entrap premises.
- m) WMP felt it was an unsettling situation and the premises were selling to children. The consequences of the underage sale of alcohol were a direct impact on the 15yo girl, her family and her friends.

- n) PC Rohomon referred to the Section 182 Guidance 11.27, which outlines the criminal activity arising in connection with licensed premises which should be treated particularly seriously, to indicate to the Members just how seriously the sale of alcohol to minors was regarded by the Secretary of State.
- o) PC Rohomon also advised the Committee that he had googled alcohol and the effects on children and had taken information from websites such as; Barnardo's who said that young people who used alcohol were more likely to miss school, commit crime and sexual assault; the NHS referred to the damage it can have on organs, brain, liver, bones and hormones and also the higher risk of underage pregnancy, injury and health issues; Drink Aware also talks about the consequences of alcohol similar to Barnardo's.
- p) The alcohol the 14yo female purchased during the test purchase was WKD, a type of sweet 'alcopop'.
- q) That WMP didn't believe that the employee was distracted.
- r) That WMP did not know what more they could do as a responsible authority (RA), they had given advice, as had other responsible authorities on numerous occasions. They had followed paragraph 11.10 of the Guidance issued under section 182 of the Licensing Act 2003, which stated that it was good practice for RA's to give early warning of concerns and the need for improvement and that they should advise steps to address concerns and then failure to address concerns could result in review of the licence. The premises had received guidance, help, warnings and advice therefore, there was no other option other than to review the licence.
- s) The Committee had options such as adding conditions, however, WMP did not see how any conditions could alleviate the concerns. Further, the Committee could remove the DPS however, that would not remove the PLH and as previously stated the Committee could put a condition on the licence that the DPS be removed and the substitute must be approved by WMP and TS.
- t) That another option for the Committee was to suspend the licence for 3 months but given the history WMP were completely supporting TS's recommendation of revocation as they had major concerns over under age sales and consumption.

In answer to Members questions PC Rohomon made the following points: -

- a) That WMP used to do test purchases with TS and they are governed very tightly, therefore, the girl would have had to look 14yo.
- b) That 'alcopops' were the type of alcohol that young people liked to drink especially minors.
- c) That complaints alone were not enough, they had to do a test purchase to see what had happened.

Mr Williams advised that when he visited the premises he did not see the posters on display which had previously been given to the premises.

Mr Turay, representing the PLH, made the following points: -

- a) That he was a trainee solicitor. He would make submissions on 3 main points and the first being the allegation of the intoxicated female, second in respect of a complaint made by a member of the public regarding counterfeit products being sold at the premises and the third would be in relation to the test purchase.
- b) He confirmed that his client understood the Licensing Objectives.
- c) He referred the Members to paragraph 20 of the witness statement dated 6th January. The allegation relating to the incident in the park was denied. There was no indication that the victim had said that she bought the alcohol from D&B Wines, yet she must have been asked.
- d) A telephone call was made, and TS received information from a friend of the victim who said she purchased cigarettes from the premises, however there was no indication that the alcohol was purchased from the premises. They had no evidence that the alcohol was purchased from D&B Wines only what the friend said.
- e) That the Committee should take allegations on face value, he was not challenging that the girl was drunk, but perhaps due to the location the girl was found in and the locality to the shop it was potentially the first thing that came into her head at the time.
- f) The allegation that illicit tobacco was found inside the premises and was being sold from the premises was not the case and his clients statement gave an explanation as to why a member of the public would make such an allegation. The member of the public purchased tobacco from the premises, took it out, then came back and tried to return it. The premises refused the return of the product and then she advised she would report them for selling fake tobacco.
- g) That was the second complaint, and yet TS and WMP did nothing about it even though they would have had the right to apply for a review at that point.
- h) In relation to the test purchase, his client came back from the cash and carry, and the shop worker informed him that a test purchase had taken place. The volunteer was said to be 14yo. The shop worker was distracted by a gentleman in the shop acting suspiciously. The alcohol that the young girl purchased was in the "general isle" and was 4% ABV, and not stored behind the counter with the high strength alcohol. The girl did not look around she went straight to the bottle and took it to the sales desk. The employee did not ask her for ID like he would normally. Although he didn't speak very good English he knew how to say "where is your ID" or "show me your ID" however, on this occasion he didn't ask for ID as he was distracted by the gentleman in the shop – Mr Williams. Moreover, they both exited the shop and then Mr Williams came back in and told them it was a

test purchase. They had concerns over the way in which the test purchase was carried out.

- i) It was the first test purchase that had been carried out at the premises. If they had done more maybe things would be different.
- j) That the premises had posters up regarding the challenge 25 policy and no alcohol being sold to under age persons. There were at least 4 posters of that type in the shop.
- k) That the PLH had not been present during any of the incidents and the PLH would not allow the shop workers to sell to minors. Mr Adi-Romulus Ileana was no longer working at the premises.
- l) Since the test purchase failure, the PLH had asked his wife to do the personal licence training course.
- m) That it was not a situation whereby the PLH had sat back and not made adjustments.
- n) That the PLH couldn't run the premises without help, he needed other employees.
- o) That if the licence was revoked it would have a massive impact on his family.
- p) That all the issues from 2017 were a result of the previous DPS and he asked the Committee to consider that revocation would cause untold hardship on him and his family.
- q) Further, that the two allegations could not be linked, and the test purchase was a deliberate attempt "to get him, they wanted to get him".

In answer to Members questions Mr Turay made the following points: -

- a) That they had 3 employees previously, however, moving forward it would just be Mr Miclescu and his wife.
- b) That his client would not accept that the 15yo girl purchased and drank alcohol from his store. TS did not provide any evidence to indicate that the alcohol came from D&B Wines.
- c) That the TS officer distracted the employee, and the employee felt the female looked 18yo.
- d) That the PLH and employee always asked for ID.

After a discussion between Mr Turay and his client Mr Turay continued: -

- a) That they did have a record of refusals.
- b) That there were posters in the shop, one of which was provided by TS.

- c) That the tobacco found in an old fridge at the back of the premises was a storage place for staff's personal items. The tobacco belonged to Mr Adi-Romulus Ileana and was not for sale in the shop.
- d) That it was not in dispute that persons tried to purchase single cigarettes in the shop, however, they were refused.
- e) That all incidents happened in absence of the PLH and he realised how serious it was, however, Mr Williams should have spoken with him directly and told him what was going on, Mr Williams should have...

The Chairman interjected and advised Mr Turay that it was not a Licensing matter and that he should move on.

In summing up, PC Rohomon on behalf of WMP made the following points: -

- ❖ That he had listened with some interest to the points put forward by the PLH/representative however, he wanted to pick up on the point in Mr Adi-Romulus Ileana's statement where he commented that he saw "her pick up a bottle of WKD", therefore he was aware of the female and yet he said he was distracted and not aware of her. He either was aware of her or he wasn't.
- ❖ The fact that the employee stated he didn't think she was underage was hard for WMP to believe. Moreover, they were concerned by the submissions that the alcohol was from the 'general isle' and therefore, not as bad in some way.
- ❖ That the submissions from Mr Turay were that the 'PLH and employee always asked for ID' yet they failed a test purchase.
- ❖ There was no evidence of a refusals book.
- ❖ That the DPS and PLH had already done a personal licence course and therefore should know all about refusals books and yet no evidence of one.
- ❖ That the girls in the park confirmed they purchased the alcohol from D&B Wines. Officers visited the premises and gave general advice about not selling to minors and yet 6 weeks later they failed a test purchase.
- ❖ That there was nothing further WMP could do to help the premises. All the right people had tried to help and offer advice yet the PLH had made no effort to contact TS. The guidance was clear.
- ❖ That WMP felt revocation was the only option.

In summing up Mr Williams, on behalf of TS made the following points: -

- ❖ That the intelligence that the girl got the alcohol from D&B Wines came from WMP.

- ❖ That the procedure for the test purchase meant that the volunteer would go into the shop with a TS officer for safety reasons but also for evidential purposes.

At 1250 Mr Jasim (translator) requested that he be allowed to leave the room to go and renew his parking fee as it was due to expire, and he didn't want to get a ticket.

The Chairman agreed to the request and he left the room.

At 1253 the solicitor and his client requested to have a brief chat outside the meeting room.

The Chairman granted the request and allowed all the other parties to remain inside the meeting room but to only reconvene the summing up process once all parties returned.

At 1254 Rupinder Sangma left the room for a comfort break and at 1256 all parties rejoined the meeting without Rupinder Sangma, who rejoined the meeting a few minutes later.

Mr Martin Williams continued to sum up: -

- ❖ That the volunteer never went into the shop alone, Mr Williams was observing whilst the volunteer made the test purchase.
- ❖ The same day they did 8-10 test purchases at other premises and only 2 premises allowed the sales, so it wasn't an attempt to target a particular shop.
- ❖ That he wouldn't dispute the posters being up, as whilst the traders notice said it wasn't up, he could see the posters on the photographs.

In summing up Mr Turay, on behalf of the PLH made the following points: -

- ❖ That he had found the hearing helpful as he was only a trainee solicitor.
- ❖ That there was no evidence to support the submissions from both RA's that the 15yo girl purchased alcohol from the premises, he suggested the submissions from TS were venomous.
- ❖ The lady who purchased tobacco and wanted to return it but was refused was the lady who made the allegation regarding illicit tobacco and therefore, the allegation was not valid.
- ❖ That if the allegation was so serious why did TS not do anything.
- ❖ The 15yo ended up in hospital and yet TS did nothing, yet it was only now they wanted the Committee to decide. There was no evidence that the sale was carried out at the premises.
- ❖ The test purchase was carried out by professionals who wanted to trap the PLH.

- ❖ The PLH's wife intended to do training and they would provide proof of that.
- ❖ That the PLH wished to address the Committee regarding why he was not in the shop on any of the occasions mentioned at the hearing.

The Committee Lawyer advised that it would be considered as new evidence and therefore, would only be considered at the Members discretion and once the other parties had confirmed whether they objected.

PC Rohomon advised that it was new evidence and without knowing what the submission was, he couldn't say.

There were no further objections.

Mr Turay advised that the PLH wanted to explain regarding a medical condition which was part of the reason he had not been at the premises. He would travel to Romania for treatment.

The Chairman advised that it was new evidence and therefore, the other parties would be able to make comments in relation to the submission.

Mr Miclescu via his translator Mr Jasim told the Committee how sorry he was and that he had been to hospital. He wasn't aware of what had happened, but he didn't know if the 15yo purchased alcohol from his premises or from another premises.

The Chairman advised that the solicitor had already put forward the point regarding where the 15yo girl purchased her alcohol and to not repeat what the solicitor had said.

Mr Miclescu via Mr Jasim advised that he had been in Romania for a personal health problem as it was easier to get appointments in Romania. He wasn't sure if the Committee wanted to hear about his personal problem.

The Chairman advised that the solicitor had already told the Committee that the shop was family run and if the licence was revoked it would have a direct impact on his family as it was their main source of income.

All parties confirmed that they had nothing more to add.

At 1313 the meeting was adjourned and all parties with the exception of the Members, Committee Lawyer and Committee Manager withdrew from the meeting.

At 1327 the meeting was reconvened and all parties were invited to re-join the meeting and having taken into consideration the legal consequences of the withdrawal of the representations the Committee announced as follows:-

05/130120

RESOLVED:-

That having reviewed the premises licence held under the Licensing Act 2003

by Marius Miclescu in respect of D&B Wines, 201 Dudley Road, Winson Green, Birmingham B18 7QY, upon the application of the Chief Officer of Weights and Measures, this Sub-Committee hereby determines that **the licence be revoked**, in order to promote the prevention of crime and disorder, public safety, and protection of children from harm objectives in the Act.

The Sub-Committee's reasons for revoking the licence are due to concerns expressed by the responsible authorities, namely Trading Standards and West Midlands Police.

Trading Standards had submitted a Report to the Sub-Committee explaining that in September 2019 there had been an alcohol-related incident in a park located near the premises. As a result, Trading Standards had visited the shop together with the Police. The visit was not to take any direct action, but simply to advise the management about preventing underage sales, and to assist them by supplying posters for display in the shop. The licence holder was abroad at the time, and so officers had a meeting with his wife, in which they passed on their advice.

In November 2019 Trading Standards conducted one of their regular test purchasing exercises. They visited a number of licensed premises around the city, including D&B Wines. Test purchasing, which is a regular part of Trading Standards' normal work, is carried out to check compliance with the law – namely whether or not a premises is prepared to sell alcohol to a teenager who is visibly under 18. On the day in question, a 14 year old female volunteer was assisting the officers.

On entering D&B Wines, a Trading Standards officer stood in the shop and observed as the 14 year old volunteer was able to purchase a large bottle of WKD Blue, which is an 'alcopop'-style pre-mixed vodka drink of 4% ABV, by selecting it from the shelf, taking it to the counter and paying for it. The staff member behind the counter (an employee of Mr Miclescu) who permitted the sale did not ask the 14 year old to show some age-related ID; indeed he did not even ask her to state her age.

Officers returned to the shop to ask the employee to explain why he had permitted the sale to a customer who was visibly underage. The employee was unable or unwilling to do so, perhaps due partly to language difficulties, and a family member was called to act as interpreter. Mr Miclescu was not in the shop – instead his employee, unable to speak English, was the person in charge of alcohol sales, and had permitted a 14 year old to buy WKD Blue without any challenge. Trading Standards also noted to the Sub-Committee that on two other occasions when they had wanted to speak to Mr Miclescu, a young man had to be called to interpret for him, as Mr Miclescu himself also had difficulties with English. These circumstances did not inspire confidence that the premises was properly managed, properly staffed, or capable of following the law.

Whilst in the shop, officers also discovered 3 packs of illicit hand-rolling tobacco in a small fridge. These appeared to be counterfeit. It was therefore apparent to officers that the premises was not only failing to uphold the licensing objectives, but actively undermining three of them, despite the advice given at the meeting with Mr Miclescu's wife.

Trading Standards also outlined a previous incident the year before. In October 2018, Trading Standards received a complaint from a member of the public that D&B Wines was selling 'fake cigarettes', and was also selling alcohol to those under age. Officers who attended to give advice on such sales witnessed three attempted sales of single cigarettes by a member of staff behind the counter. Mr Miculescu was not in the shop. A Trader's Notice was issued on this occasion.

Given that the shop had proven itself incapable of handling sales of either alcohol or tobacco legally, the recommendation of Trading Standards was that the Sub-Committee should revoke the licence. This proposed course was supported by West Midlands Police, who addressed the Sub-Committee on the impact that underage sales of alcohol have on the licensing objectives.

The Sub-Committee found the information provided by the Police in the Report to be very useful in explaining the effects of improper sales of alcohol on youngsters, their families and the emergency services. The Sub-Committee agreed with the Police's conclusion, namely that any licensed premises prepared to take such risks with the licensing objectives was failing to uphold the trust placed in them by the City Council.

The Sub-Committee then heard from Mr Miculescu's legal representative, and also from him directly (via an interpreter). The employee who permitted the sale of the WKD Blue also accompanied him to the meeting, despite having had his employment terminated.

The Sub-Committee gave careful consideration to their submissions, but was not remotely satisfied, given the evidence submitted by the two responsible authorities, that the premises was capable of proper operation. The explanation given for the sale of the WKD Blue was that the employee had been distracted by another customer acting suspiciously in the shop; this person was the Trading Standards officer who was there to witness the test purchase. The Sub-Committee did not accept that some distraction, caused by others in the shop, was any reason to justify the failure to challenge a visibly underage girl to show some ID to purchase alcohol. Such a situation was part of the everyday work of any off-licence employee.

The licence holder also stated that ID checks were always made on customers requesting higher-strength alcohol from behind the counter, but the WKD Blue was stocked on the general aisle, for customers to select from the shelf. However the Police reminded the Sub-Committee that all alcohol requires ID checks, not simply the higher-strength products.

The explanation given for the counterfeit tobacco discovered in a fridge was that it was the employee's own property, for his personal use, and not for sale to customers. Whether or not that were the case, the issue was that counterfeit tobacco should not be finding its way into any licensed premises for any reason at all. It was the responsibility of Mr Miculescu to ensure that such items did not enter the premises, and to instruct his staff regarding their own conduct and the proper promotion of the licensing objectives. Equally the attempted sale of single cigarettes was a serious offence that would never arise in any well-run premises. There had been failings from both management and staff.

The offer for Mr Miculescu's wife to undertake licensing qualifications and to become a personal licence holder herself was not sufficient to ensure that the licensing objectives would be properly promoted. The Sub-Committee was of the view that it was impossible to have any confidence in the premises, given the management style which had been described by the responsible authorities.

A submission was made that to revoke the licence would cause 'untold hardship' to the licence holder. The view of the Sub-Committee however was that the Police documents in the Report outlined a similar effect caused by underage sales of alcohol. Accordingly, the only course was to revoke the premises licence.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the application for review, the written representations received, and the submissions made at the hearing.

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

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

06/130120

ANY OTHER URGENT BUSINESS

No urgent business.

..... Chairman

BIRMINGHAM CITY COUNCIL

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| LICENSING SUB-COMMITTEE A 3 FEBRUARY 2020 |
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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE A HELD ON MONDAY 3 FEBRUARY 2020, IN ELLEN PINSENT ROOM, COUNCIL HOUSE, BIRMINGHAM, B1 1BB

PRESENT: - Councillor Philip Davis in the Chair;

Councillors Nicky Brennan and Bob Beauchamp.

ALSO PRESENT

Bhapinder Nhandra – Licensing Section
Joanne Swampillai – Legal Services
Katy Townshend – Committee Services

NOTICE OF RECORDING

1/030220 The Chairman advised the meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

2/030220 DECLARATION OF INTERESTS

Members were reminded that they must declare all relevant and pecuniary and non-pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations to be recorded in the minutes of the meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/030220 Apologies were submitted on behalf of Councillor Mary Locke and Councillor Nicky Brennan was the nominee Member.

SUBSIDE, 57 HIGH STREET, DIGBETH, BIRMINGHAM, B5 6DA – LICENSING ACT 2003 AS AMENDED BY THE VIOLENT CRIME REDUCTION ACT 2006 – APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENCE: CONSIDERATION OF INTERIM STEPS.

A certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003, an application for Review of Licence, a copy of Premises Licence and Location maps were submitted:-

(See document No. 1)

On Behalf of the Applicant

PC Abdool Rohomon – West Midlands Police (WMP)
Chris Jones – West Midlands Police (WMP)

On behalf of the Premises Licence Holder

Melissa Toney – Gregg Latchams Solicitors
Davis Longmate – Premises Licence Holder (PLH)
Ben Mortiboy – Designated Premises Supervisor (DPS)

Prior to the Chairman making introductions Cllr Beauchamp advised that he knew of the Mortiboy name, especially a Robert Mortiboy. At which stage the Chairman enquired as to whether Mr Ben Mortiboy knew Cllr Beauchamp, Mr Ben mortiboy confirmed he did not know Cllr Beauchamp and further, he was not aware of a family member called Robert Mortiboy.

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

At this stage PC Rohomon from WMP advised that he had a preliminary point, and requested that WMP'S evidence be heard in private as:

- There was an ongoing investigation
- It was a serious crime
- Items had been seized and were still being tested
- Not to hear the evidence would undermine the licensing process and therefore the evidence should be heard in private.

The chairman invited those on behalf of the PLH to make comments and address the Committee in relation to WMP's preliminary point.

Mrs Toney advised that she was not going to be asking questions regarding what was seized at the premises, and there was no reason to ask questions in relation to the intelligence. The person in question was in custody and the DPS and PLH who had attended were not under investigation, therefore, she didn't see any reason for the meeting to be held in private.

PC Rohomon clarified that he only wanted to exclude the press/public and that those on behalf of the PLH would be allowed to stay.

Mrs Toney conceded PC Rohomon's request.

The Chairman agreed for the evidence to be heard in private.

The Chairman then explained the hearing procedure prior to the meeting going into private in order for WMP to make their presentation.

EXCLUSION OF THE PUBLIC

4/030220 **RESOLVED:-**

That in accordance with Regulation 14 of the Licensing Act 2003 (Hearing) Regulations 2005, the public be excluded from the hearing due to the sensitive nature of the evidence to be presented.

Subside, 57 High Street, Digbeth, Birmingham, B5 6DA

At this stage in the meeting having heard the submissions in private the public were readmitted to the meeting and the decision of the Sub-Committee was announced as follows: -

5/030220 **RESOLVED:-**

That having considered the application made and certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003 for an expedited review of the premises licence held by Subside Bar Limited in respect of Subside, 57 High Street, Digbeth, Birmingham, B5 6DA 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 receiving the Chief Officer of Police's application

The meeting was conducted in private session after the Sub-Committee considered an application made by West Midlands Police under Regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005.

The Sub-Committee's reason for imposing this interim step is due to the concerns of West Midlands Police in relation to matters which came to light as outlined in the Chief Officer of Police's certificate and application.

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 by the premises licence holder/ DPS 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.

Please note, the meeting ended at 1125.

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

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| Report to: | Licensing Sub Committee A |
| Report of: | Interim Assistant Director of Regulation & Enforcement |
| Date of Meeting: | Monday 24th February 2020 |
| Subject: | Licensing Act 2003 Premises Licence – Review |
| Premises: | La Bufet, 136 Boulton Road, Birmingham, B21 0RE |
| Ward affected: | Soho and Jewellery Quarter |
| Contact Officer: | Shaid Yasser, Senior Licensing Officer, 0121 303 9896, licensing@birmingham.gov.uk |

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

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| 2. Recommendation: |
| To consider and determine the review application. |

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| 3. Brief Summary of Report: |
| Review application received on 9 th January 2020 from the Chief Inspector of Weights & Measures in respect of La Bufet, 136 Boulton Road, Birmingham, B21 0RE. |
| Representations have been received from both West Midlands Police and Birmingham City Council Licensing Enforcement as responsible authorities. |

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

5. Relevant background/chronology of key events:

The Chief Inspector of Weights & Measures applied on 9th January 2020 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for La Bufet, 136 Boulton Road, Birmingham, B21 0RE

Representations have been received from West Midlands Police and Birmingham City Council Licensing Enforcement, as responsible authorities. See Appendices 1 and 2.

Review application is attached. See Appendix 3.

The Premises Licence is attached at Appendix 4.

Site location plans are attached at Appendix 5.

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

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

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

6. List of background documents:

Copy of the representations as detailed in Appendices 1 and 2.

Review Application Form, Appendix 3.

Copy of Premises Licence, Appendix 4.

Site location plans, Appendix 5.

7. Options available

Modify the conditions of Licence

Exclude a Licensable activity from the scope of the Licence

Remove the Designated Premises Supervisor

Suspend the Licence for a period not exceeding 3 months

Revoke the Licence

No Action

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

Entered 16/1/20
JS.

From: bw licensing
Sent: 16 January 2020 10:00
To: Licensing
Cc: Paul Ellson
Subject: WMP Representation - La Bufet - 136 Boulton Rd - Licence no 5092
Importance: High

Good Morning Licensing,

West Midlands Police support the representation made by Birmingham Trading Standards regarding La Bufet, 136 Boulton Road, Soho B21 0RE – premises licence number 5092.

The representation is supported under public safety and prevention of crime & disorder licensing objectives.

Trading standards visited the premises on 31st July 2019 due to a complaint from a member of the public that the premises were selling alcohol – (without a licence.) At the visit they found both illicit alcohol and cigarettes for sale at the premises.

From the representation made by Trading Standards it is obvious that Mr Mustatea who is both the premises licence holder and designated premises supervisor is either incapable or unwilling to promote the licensing objectives despite being given advice and a warning by Trading Standards regarding illicit tobacco and alcohol on 31st July 2019 less than 3 months prior to the visit on 7th October which has led to this review. This is compounded by the fact the first visit in July 2019 to the premises by Trading Standards where the original advice and traders notice were given was while Mr Mustatea was in the process of applying for a premises licence.

The premises licence was granted 6th August 2019 after West Midlands Police had objected to the application due to concerns about the premises supplying illicit medication and the negative impact the premises would have on the street drinking as associated ASB issues within the area. The committee at the time decided to give Mr Mustatea the benefit of the doubt and grant the licence. It was only 2 months after the granting of this premises licence that the visit took place which has prompted this review.

In the experience of West Midlands Police the trade in illicit cigarettes helps fund other criminal activity. Mr Mustatea would have no idea whether these illicit cigarettes were fit for human consumption, what harmful toxins may be present or what health implications it may have for anyone smoking these cigarettes. One thing for certain is the fact that there would have been no duty paid on these cigarettes and more often than not all the transactions for these cigarettes would be in cash with no tax paid. Mr Mustatea has put profit over promoting the licensing objectives of public safety and prevention of crime and disorder.

The licensing committee of 6th August 2019 put their faith in Mr Mustatea by granting him a premises licence with the expectation he would promote the licensing objectives. Bearing in mind the advice and warning given, (while his premises licence application was being processed) and the extremely short period of time between the granting of the licence and this review Mr Mustatea has definitely not repaid the committee's confidence in him.

Trading Standards have worked with Mr Mustatea and given him clear advice which he seemingly has decided to totally ignore. Even before the premises licence was granted Mr Mustatea was not only selling alcohol from the premises but selling home-made 'hooch' again having no regard for public safety. Again it is highly unlikely that tax or duty would be paid on any of this alcohol taking into account it had been decanted from the original container(s).

West Midlands Police have no confidence that Mr Mustatea has any intention of meeting or promoting the licensing objectives. It is obvious that Mr Mustatea has no intention of working alongside the responsible authorities as he has blatantly lied to Trading Standards Officers on 7th October 2019 and therefore fully agree with Trading Standards that the premises licence should be revoked.

Regards

Chris Jones 55410

Birmingham Central Licensing Team

Switchboard Tel: [REDACTED]

Direct Dial Tel: [REDACTED]

West Midlands Police HQ
Lloyd House
Colmore Circus
Birmingham
B4 6NQ

(Sat nav postcode B4 6AT)

Contact us on 999 in an emergency or for all other matters please visit [WMPolice Online](#)



Serving our communities, protecting them from harm
www.west-midlands.police.uk

Find us on:



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Birmingham City Council Licensing Service Birmingham

Representation as a responsible authority in respect of the premises licence no.
5092 granted under the Licensing Act 2003 in respect of premises known as

La Bufet, 136 Boulton Road, Birmingham, B21 0RE

Introduction

The current premises licence holder – Mr Stefan Mustatea

Nominated Designated Premises Supervisor – Mr Stefan Mustatea,

The licence currently authorises the following licensable activities:-

M2 - Sale of Alcohol by retail (off the premises)

And permits this licensable activity to take place:-

Sale of Alcohol

Monday – Sunday 10:00 – 22:00

Opening hours of the premises

Monday – Sunday 10:00 – 22:00

| | |
|---|--------------------|
| BCC REGULATION & ENFORCEMENT LICENSING SECTION DATE RECEIVED | |
| 14 JAN 2020 | |
| REF NO | Entered BN 15/1/20 |
| INITIALS | JS |

Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

The Premises Licence Holder shall ensure there are strong management and security procedures in place which encompasses the four licensing objectives.

The Premises Licence Holder shall ensure that all staff are trained as appropriate in respect of relevant licensing law, the Challenge 25 Policy and the requirements and the need to demand an acceptable form of age ID.

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

The Premises Licence Holder shall ensure a CCTV system is installed inside and outside the premises.

Any person who appears drunk / aggressive will not be permitted on the premises.

No consumption of alcohol will be permitted inside the premises.

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

No enforceable conditions identified from operating schedule

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

Notices will be displayed at the exit of the premises asking patrons to leave the premises quietly.

All deliveries will be received during the daytime to control noise nuisance.

The Designated Premises Supervisor will arrange to monitor levels from both inside and outside the premises and remedial action will be taken as appropriate.

Doors and windows will be kept closed as deemed necessary by the Designated Premises Supervisor.

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

A Challenge 25 Policy will be strictly followed by all staff.

No adult entertainment is permitted at these premises.

Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

Licensing Sub Committee C resolved to grant the premises licence on the 31st July 2019, subject to the condition below:

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

There shall be no sale of single cans of beer, ciders, lagers, alcopops or premixed spirit drinks.

3c) Committee conditions to promote public safety

N/A

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

N/A

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

N/A

Background Information

On 11th June 2019 an application was received by Birmingham City Council Licensing Section from Mr Stefan Mustatea for a premises licence at the address of La Bufet, 136 Boulton Road, Birmingham, B21 0RE.

On 12th July 2019 a complaint was received by Birmingham City Council Licensing Service regarding the premises La Bufet, 136 Boulton Road, Birmingham, B21 0RE. The complaint alleged that the premises were selling alcohol without a licence to do so, along with illicit tobacco and prescription only medicines. As a result of this complaint The Medicines and Healthcare Products Regulatory Agency (MHRA) were notified with regards to the allegation of prescription only medicines being supplied and Birmingham Trading Standards notified with regards to the allegation of illicit tobacco and alcohol being supplied.

As a result of the allegations made in the complaint, a joint inspection was arranged with Trading Standards and Licensing Enforcement at their earliest convenience, this being 31st July 2019 at 10:40 hours.

On entering the premises there was a woman behind the counter. The officers (Paul Ellson, Trading Standards Enforcement Officer and Sharon Watts Licensing Enforcement Officer) explained the reason for their visit but she didn't appear to understand. She made a telephone call and Trading Standards Enforcement Officer Paul Ellson spoke to a woman giving her name as Mrs P Mustatea, the wife of the owner. Mrs Mustatea arrived at the premises shortly after and she was made aware of the allegations surrounding the complaint.

Officers noted a price list displayed in the shop (Appendix 1) indicating that alcohol was already being sold from the premises. The price list was in Romanian and a translation of this can be found attached (Appendix 2).

In light of this a full inspection of the premises was made. On inspection of a large stockroom at the rear of the premises a quantity of illegal products were found:-

- 200 illegal Davidoff cigarettes found in the shop freezer. (Packaging found not to comply with tobacco labelling requirements).
- 5 litres of red wine that had been decanted into plastic bottles. (Photo Appendix 3)
- 35 litres of red wine which had been decanted into plastic bottles and hidden in a large Budweiser display barrel. (Photo Appendix 4)
- A large tapped bell jar containing what appeared to be alcohol spirit (Photo Appendix 5)

Also found in the store room:-

-
- A large quantity of canned beers found in a fridge and freezer (Photo Appendix 6 & 7)

The red wine and spirits had no labelling present on the bottles and due to its unknown origin etc was destroyed by Officer Ellson by pouring down the drain.

Trader Notices were issued by Licensing Enforcement (Enforcement Officer Sharon Watts issued Trader Notice No. 26386/7 marked for the attention of Mr Stefan Mustatea, copy attached as Appendix 8) and Trading Standards (Enforcement Officer Paul Ellson issued Trader Notice no. 13267/8, copy attached as Appendix 9). Mr Mustatea was requested to act on the information provided in the Trader Notices.

On 6th August 2019 a Premises Licence no. 5092 was granted to Mr Stefan Mustatea for the premises La Bufet, 136 Boulton Road, Birmingham, B21 0RE.

On 7th August 2019 Trading Standards Enforcement Officer Paul Ellson sent a letter to Mr Mustatea issuing him with a written warning, following the inspection carried out on 31st July 2019. (Copy of letter attached Appendix 10).

A re-visit to the premises of La Bufet, 136 Boulton Road was made by Trading Standards Enforcement Officer Paul Ellson and Licensing Enforcement Officer Sharon Watts on 7th October 2019. On this occasion a Licensing Act 2003 inspection was carried out to ensure that the business was complying with conditions attached to the Premises Licence.

On arrival at the premises the woman behind the counter was requested to contact the owner, Mr Stefan Mustatea and he arrived shortly after. On arrival Mr Mustatea was informed that an inspection would be carried out to assess compliance with conditions on his Premises Licence. Officer Ellson asked Mr Mustatea if he had any illicit tobacco on the premises to which Mr Mustatea presented a plastic bag from under the counter, containing a variety of cigarettes, all of which did not comply with labelling requirements for supply in the UK. Officer Ellson asked Mr Mustatea if there was any more tobacco on the premises and he denied this. Officer Ellson conducted an inspection of the counter area and obtained a further 131 packets of illicit tobacco (did not comply with labelling requirements for sale in the UK). Officer Ellson seized this tobacco.

The inspection carried out by Licensing Enforcement Officer Sharon Watts identified breaches of the conditions of licence. These were recorded on Trader Notice No. 26463. (Copy attached Appendix 11). Mr Mustatea was given time to rectify the licensing non-compliances. A revisit was subsequently made by Licensing Enforcement Officer Sharon Watts on 4th December 2019 and on that occasion the inspection was found to be compliant.

Licensing matters identified

The premises La Bufet, 136 Boulton Road, Birmingham, B21 0RE was initially visited as a result of a complaint made to Birmingham City Council concerning illicit products being supplied. The inspection carried out by officers on 31st July 2019 confirmed the allegations regarding illicit alcohol and tobacco. At that time a Premises Licence had been applied for but not been granted. It was decided to provide Mr Mustatea with a written warning and a follow up visit to ensure matters had been addressed following the grant of the Premises Licence. The inspection carried out by officers on 7th October 2019 hi-lighted that illicit tobacco was again found on the premises. The Licensing Act inspection was the first full inspection following the grant of the licence and therefore advisory. The revisit by Licensing Enforcement on 4th December 2019 was found to be compliant. This inspection however, does not negate the fact that illicit tobacco was found to be on the premises during the joint inspection with Trading Standards on 7th October 2019, whereby previous advice had been given.

Guidance issued under section 182 of the Licensing Act 2003 – Reviews arising in connection with crime states:-

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of crime prevention objective.

11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion

of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Licensing Enforcement Team Recommendations to the Licensing Committee

As a Licensing Authority Birmingham City Council must carry out its licensing functions with a view to promoting the licensing objectives contained in the Act. The Act is clearly intended to prevent crime and disorder in relation to premises, as well as deter and prevent unscrupulous persons from operating illegally under the authorisation of a premises licence.

Birmingham City Council Licensing Enforcement support Birmingham Trading Standards in the request for a review of the Premises Licence. Options available to the Licensing Sub Committee in determining the most appropriate course of action for this review may be suspending / revoking the licence or imposing further conditions on the licence which may include the following:-

- Only buying tobacco / alcohol from reputable sellers, keeping invoices relating to any sales for traceability purposes. The invoices to be produced at the request of an authorised agent.

-
- Keeping CCTV for a minimum of 28 consecutive days and images available to download and produce at the request of a responsible authority.
 - Providing staff training relating to the 4 licensing objectives. The training being recorded, kept on site and available for production on request by a responsible authority.

SEND & RECEIVE
**MONEY
HERE**

WESTERN UNION **WU**

SEND & RECEIVE
**MONEY
HERE**

WESTERN UNION **WU**

Appendix
1

! NUMAI LA COMANDA !

COMANDA MINIM CU 1 zi INAINTE

MICI DE CASA

£ 7.00 / KG

PASTRAMA:

- OAIE -----> £10.00/Kg
- PORC -----> £ 9.00/Kg

CARNATI de CASA:

Amestec carne porc in mat :

- OAIE -----> £ 8.99/Kg
- PORC -----> £ 8.00/Kg

Amestec carne porc + vita in mat :

- OAIE -----> £8.99/Kg
- PORC -----> £8.99/Kg

Patiserie de Casa :

Cozonac -----> £10.00/buc

Chec -----> £8.00/buc

Prajituri asortate --> £12.00 / Kg

Prajituri ----> £ 1.60 / buc.

TORTURI LA COMANDA !

VIN:

ALB ----->£ 6.50 / L

ROSU -----> £ 6.50 / L

ROZE -----> £ 6.50 / L

TUICA -----> £15.00/L

VISINATA -> £15.00/L

Coasta porc afumata --> £7.50/Kg

Sunca afumata -----> £ 8.00/Kg

Sunca cu usturoi -----> £ 8.00/Kg

Sunca boia + usturoi --> £ 8.00/Kg

Carne tocata porc -----> £ 5.50/Kg

Aripioare Pui £ 3.79 / Kg

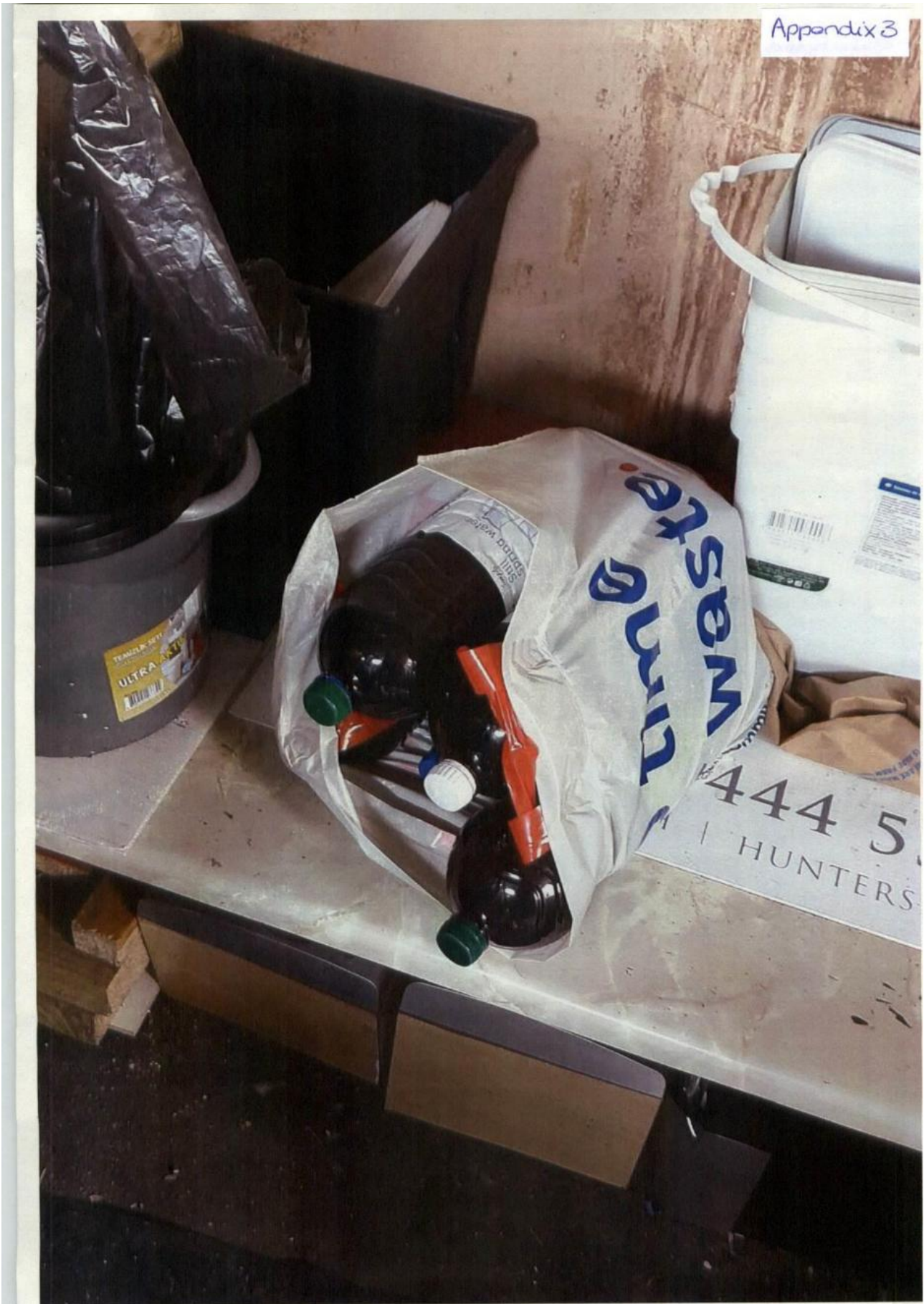
RATE

2.6 Kg ----> £ 8.69 / buc

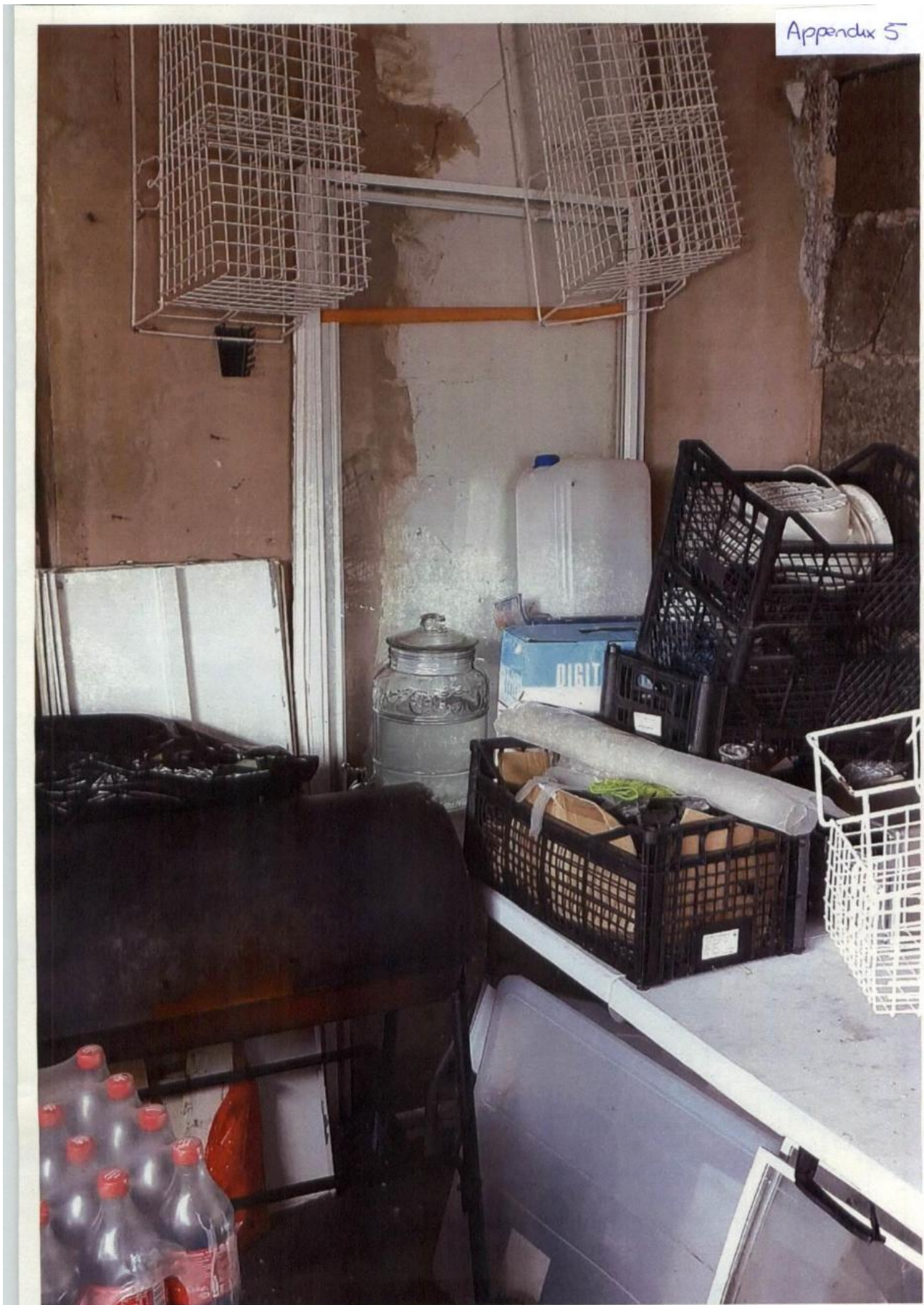
(£ 3.35 / Kg)

PIEPT PUI £ 3.99 / Kg









Appendix 5







Birmingham
City Council

Chris Neville
Head of Licensing

No. 26386

Licensing (Enforcement) Section
P.O. Box 17013
Birmingham
B6 9ES



RS 26188

Stepan mustatea

M. La Buret

Enquiries to: *Mrs. S. White*

136 Baulk Rd.

Telephone: *303 9365*

B.21 DRE

Date: *21/7/19*

Legislation: *Licensing Act 2003*

The following matters have been identified which do not comply with the above legislation:

*This service is in receipt of
a complaint regarding alcohol being
sold from these premises.*

*You do not have a licence
at present to sell alcohol even
though you advertise white, red
and rose wine for sale per litre.*

*Your storage area was found to have
alcohol - (beer & wine) which you
stated you had purchased for use
a licence may be granted.*

*You are advised that you commit
an offence under the above legislation.*

Received by: *[Signature]* Authorised Officer: *[Signature]*

CRISTINA MUSTATEA

ptb



The Government Standard

44.49



Chris Neville
Head of Licensing

No. 26387

Licensing (Enforcement) Section
P.O. Box 17013
Birmingham
B6 9ES



FS 26188

M. La Burel

Enquiries to: Mrs S. Watts

Telephone: 323 9345

Date: 31/7/19

Legislation: continued page 2

The following matters have been identified which do not comply with the above legislation:

If you sell alcohol / expose for
sale alcohol without a licence
to do so. Remove the advert for wine
It was also noted that there appears
to be alcohol (wine) stored in
old bottle containers with no labelling
which you stated were not for
consumption & have thrown away.

Should a licence for alcohol not
be granted, you are advised to
remove any alcohol from your premises

Received by: Authorised Officer:

PETRONELA MUSTATA



The Government Standard

44.40



No. 13267

STEFAN MUSTAFA
LABURNET LANE

136 EDITION RD

B71 ORE

1050

Enquiries to: P. A. ELLSON

Telephone: 0121 303-9337

Date: 31/7/19

Legislation: 1052- PERMISSION GIVEN TO
SEARCH - INSPECTOR

LICENSING ACT 2003, TOBACCO
AND RELATED PRODUCT 2016

STANDARDIZED PACKAGING OF
TOBACCO PRODUCTIONS 2013

FOOD SAFETY ACT 1990

INSPECTION OF PREMISES AT

ROAN STOCK ROOM -

1x SLEEVE DAVIDOFF, COMPLIANT

5x UNITS RED WINE IN ASDA SATION

1x UNMADE BOTTLE - DESTROYED 24/8

1x UNITS OF RED WINE IN BUSBY

AQUARIQUE 5L (BABY), DESTROYED 24/8

BURNED UP FOOD SAFETY LEGISLATION

Received by: [Signature] Authorised Officer: [Signature]

SEE IMPORTANT NOTICE OVERLEAF

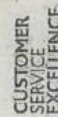
TRADING STANDARDS
Regulation and Enforcement
PO Box 16586
Birmingham
B33 3EH



FS 26188



INVESTOR IN PEOPLE



The Government Standard



47/27



Birmingham
City Council

No. 13268

M

136 BOULTON RD

Enquiries to:

Paul H. O'Leary

Telephone: 0121

303-4332

Date:

31/7/19

Legislation:

CONTINUED FROM 13267
BELL JAR OF HOME MADE/
ILLEGAL VODKA FOUND IN
STOCK ROOM WITH LARGE
QUANTITY OF EMPTY PLASTIC
BOTTLES, SMALL & LARGE
SAMPLE TAKEN IN SAKA
BOTTLE 1155 AND MARKED
IN PRESENCE BIANCA
COSMINA (WORKER)
INSTRUCTED TO DESTROYED VODKA
ENVIRONMENTAL HEALTH SHALL BE
INFORMED

Received by:

BIANCA COSMINA

Authorised Officer:

[Redacted Signature]

SEE IMPORTANT NOTICE OVERLEAF

TRADING STANDARDS
Regulation and Enforcement
PO Box 16586
Birmingham
B33 3EH



FS 26186



INVESTING IN PEOPLE



The Government Standard

47.21



Our Ref gg4/tss/9285/pae/za
Job Ref: 9447814

7 August 2019

**OFFICER WARNING
DO NOT IGNORE THIS LETTER**

La Bufet
136 Boulton Road
Soho
Birmingham
B21 0RE

Dear Mr Stefan Mustatea

**Consumer Protection Act 1987
Consumer Protection From Unfair Trading Regulations 2008
Tobacco and Related Products Regulations 2016 Standardised Packaging of Tobacco
Products Regulations 2015
Trade Marks Act 1990
EU Regulations (EU) No. 1169/2011
Food Information Regulation 2014
Alcohol Liquor Duty Act 1979
Value Added Tax Act 1999
Her Magistrates Customs & Excise, Tax, Duty, Origin and associated legislation in all
of its amended forms relating to Alcohol
Tobacco Products Duty Act 1974
Licensing Act 2003
Weights and Measures Act 1985 as Amended**

Following the inspection of your premises by Officers Watts from BCC Licensing Section and myself, I am writing to inform you concerning the contraband (tobacco and alcohol) that was found in your premises.

Upon inspection of the retail stockroom which does form part of the retail premises, a large quantity of red wine, 45 litre was discovered. This had been decanted into plastic pop and water bottles, presumable for supply. A price list was discovered in the shop, as well as numerous empty plastic bottles been amassed ready again presumably to be filled with this contraband wine.

Your contact regarding this letter is:
Paul Ellson



Birmingham City Council
Trading Standards
PO Box 16586
Birmingham
B33 3EH

Telephone: [REDACTED]
Fax: [REDACTED]
E-mail: [REDACTED]
The Place Directorate

Continuation Sheet/...

Our Ref. gg4/tss/9285/pae/za

Also an illicit "clear" alcohol spirit was discovered again ready to be sold/supplied. This discovery quite clearly breaches a vast array of Trading Standards, Licensing, Environmental Health and Custom and Excise legislation.

This legislation is primarily designed to protect the consumer and public health as well as generate income which her Majesty Government is due, and sold not be so readily and casually disregarded. The penalties for breaches can be severe and grievous.

It is not acceptable to state that such items that were found were for personal use, if they are for "personal use" they should not be in a retail premises stockroom or mixed in with what appeared to be a bottling operation and food pickling area. There are STRICT food hygiene, handling and storage regulations you MUST COMPLY with at all times.

Also 200 illicit cigarettes were found which again breaches Trading Standards Legislation. The original complaint states that you were supplying, "smuggled" alcohol to the public, indications found during this inspection would be seen to confirm this.

The Alcohol Licence that has been granted to you now to sell alcohol in the correct manner is a privilege not a right and has a number of conditions attached which you MUST comply with. Breaching the legislation may result in a review of your licence being instigated.

On this occasion it has been decided that an Officer Warning be issued. Consider this letter to be that warning. I have enclosed a number of leaflets for you which you should seriously consider reading as the licence imposes duties and obligations upon you, the limited company and all your staff.

I have however notified Environmental Health of the issues that we found.

Further inspection will be carried out and warranted searches, this may be done with specialised equipment.

If you have any comments about the contents of this letter please do not hesitate to contact me.

Yours sincerely

Paul Ellison

Enforcement Officer

Direct Telephone Number:

Enclosures:

Continuation Sheet/...

Our Ref gg4/tss/9285/pae/za

1. BC – Sale of Alcohol in licensed premises
2. BC – Sale of Food and Drink
3. BC – Alcohol
4. BC – Tobacco Packaging, etc
5. BC – Tobacco and Nicotine Inhaling Product
6. BC – Copy of Licences
7. BC – Underage Sales
8. Refusal Book
9. Tobacco Display Poster



No. 26463

Licensing (Enforcement) Section
P.O. Box 17013
Birmingham
B6 9ES



FS 26188

Chris Neville
Head of Licensing

Mr Stefan Mustatea
La Bufeta
136 Boulton Road
Birmingham, B21

Enquiries to: Mrs S. Watts

Telephone: 3039345

Date: 11/11/19

Legislation: Licensing Act 2003

The following matters have been identified which do not comply with the above legislation:

A Licensing Act inspection has been carried out today following the grant of your licence in August 2019.

The following conditions are not being complied with and thereby constitute offences under the above legislation.

Condition 2b. There is no CCTV system outside the premises.

Condition 2d. A notice is not displayed at the exit of the premises asking patrons to leave quickly. Please put the notice displayed behind the counter at the exit.

Condition 3b. There shall be no sale of single

Received by:

Authorised Officer:

STEFAN MUSTATEA



The Government Standard

44.49



No. 26464

Licensing (Enforcement) Section
P.O. Box 17013
Birmingham
B6 9ES



Chris Neville
Head of Licensing

M. 15 Burel
136 Burel Rd
.....

Enquiries to: Mrs S. Walth
Telephone: 303 9365
Date: 7/12/15

Legislation: Continued page 2

The following matters have been identified which do not comply with the above legislation:

Cans of beers, lagers, alcopops or pre-mixed
spirit drinks - I suggest you display a
notice informing your customers of this
and ensure this is part of your staff
training.
A review will be carried out in 7 days
to assess compliance.
Further enforcement action may be taken
should non-compliance with your conditions
be identified.
You must also ensure any staff employed
here that you leave in charge of the
premises in your absence can speak

Received by: Authorised Officer:

STEFAN WISTAR



The Government Standard

44.49



No. 26465

Licensing (Enforcement) Section
P.O. Box 17013
Birmingham
B6 9ES



FS 26188

Chris Neville
Head of Licensing

M. La Buel

136 Boulton Rd

Enquiries to: Mrs S. Galt

Telephone:

Date: 7/11/19

Legislation: Continued pg 3

The following matters have been identified which do not comply with the above legislation:

English and are aware of the licence
conditions and also be able to produce
any documentation relating to the licensing
conditions to an authorised person
upon request

Received by:

Authorised Officer:

SHEENA MUSTAKET



44.49

Birmingham City Council, PO Box 17013, Birmingham, B6 9ES

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

**I Paul Ellson (for and on behalf of Donna Bensley Chief Inspector of Weights &
Measures)**

(Insert name of applicant)

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

Part 1 – Premises or club premises details

| | |
|--|------------------------------|
| Postal address of premises or, if none, Ordnance Survey map reference or description La Bufet 136 Boulton Road Soho | |
| Post town Birmingham | Post code (if known) B21 0RE |

| |
|--|
| Name of premises licence holder or club holding club premises certificate (if known) Mr Stefan MUSTATEA |
|--|

| |
|--|
| Number of premises licence or club premises certificate (if known) 5092 |
|--|

Part 2 – Applicant details

I am

Please tick ✓ yes

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

☐

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

YES

| |
|--|
| BCC REGULATION & ENFORCEMENT LICENSING SECTION DATE RECEIVED - 3 JAN 2023 - REF NO RECEIVED 14.07 |
|--|

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



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

Please tick ✓ yes

Mr

☐

Mrs

☐

Miss

☐

Ms

☐

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

☐

Current postal
address if
different from
premises
address

Post town

Post Code

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

| |
|--|
| Name and address Paul Ellson (ref 9540461) Birmingham Trading Standards Manor House 40 Moat Lane Birmingham B5 5BD |
| Telephone number (if any) [REDACTED] |
| E-mail address (optional) [REDACTED] |

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

- | | |
|---|---------------------------------|
| 1) the prevention of crime and disorder | Please tick one or more boxes ✓ |
| 2) public safety | YES |
| 3) the prevention of public nuisance | YES |
| 4) the protection of children from harm | YES |

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

An application for a premises licence had been received for La Bufet, 136 Boulton Road, Birmingham, B21 0RE. However, during this time, a complaint had been received that alcohol was being sold from the premises prior to the granting of the licence. As a consequent a joint visit was carried out on 31 July 2019 at 10.40hrs; this was conducted by Trading Standards Enforcement Officer Paul ELLSON and Licensing Enforcement Officer Sharon WATTS.

At the time of the visit there was a woman behind the counter; officers explained the reason for the visit, but she appeared not to understand. She made a telephone call, Officer Ellson spoke to a lady on the phone and explained the reason for the visit; she would be there in a few minutes. Shortly after a lady arrived who gave her name as Mrs P MUSTATEA the wife of the owner. Officers explained the reason for the visit and the nature of the allegations.

Officers observed a price list on display in the shop which indicated that alcohol was already being sold from the premises. Therefore, a full inspection of the premises was undertaken. In the large stock room at the rear of the premises a quantity of illegal products was found; this included:

- 200 Davidoff cigarettes hidden in the shop freezer; these cigarettes did not comply with current UK tobacco control legislation in that the packaging did not comply with The Standardised Packaging of Tobacco Products Regulations 2015 and therefore cannot be sold in the UK and therefore illegal.
- 5 litres of red wine that had been decanted into Asda Lemonade bottles.
- 35 litres of red wine which had been decanted into Busteri Auatique (baby) bottles; these had been hidden in a large Budweiser display barrel.
- A large tapped bell jar containing homemade alcoholic spirit along with a large quantity of empty plastic bottles ready to be filled.

Due to the unknown provenance of this red wine and spirit Officer ELLSON decided to destroy the items by pouring them down the drain.

A Traders Notice number 1326 was issued by Officer ELLSON; see supporting doc 1, Officer WATTS also issued a Notice number 26387; see supporting doc 2. Both detailed what had been found and action required to be taken by the owner Mr Stefan MUSTATEA.

On the 6 August 2019 a Premises Licence was granted to Mr MUSTATEA for La Bufet, (Number 5092)

On the 7 August 2019 a follow up letter was sent to Mr MUSTATEA; see supporting doc 3.

On the 7 October 2019 at 1045am officers ELLSON and WATTS returned to the premises to ensure that it was operating legally and within the terms of the Premises Licence.

Officer ELLSON noted that just behind the counter a pack of illicit tobacco (what was it) was visible. Mr MUSTATEA was not on the premises at the time of the visit and the employee was asked to contact him; Mr MUSTATEA arrived shortly after.

Officer ELLSON asked Mr MUSTATEA if he had any illicit tobacco on the premises. Mr MUSTATEA presented a plastic bag from under the counter; this contained 22 packets of a variety of illicit cigarettes; they failed to comply with the Standardised Packaging of Tobacco Products Regulations 2015 and were therefore illegal and could not be supplied in the UK. Officer ELLSON asked him if he had any more, to which Mr MUSTATEA replied no.

Upon inspection Officer ELLSON found a further 131 packets of illicit cigarettes in 3 plastic bags and one box from under the counter; these again were not compliant with The Standardised Packaging of Tobacco Products Regulations 2015 and were therefore illegal and cannot be supplied in the UK. Mr MUSTATEA stated he had forgotten these. No other illicit products were found at the premises. The items were removed, Mr MUSTATEA was given a receipt and the officers left.

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

Although the quantity of illicit tobacco found was not a great amount, (153 packets of cigarettes in total) Mr MUSTATEA had received considerable advice from both the Licencing Section and Trading Standards both verbally and in writing on how to comply with the law and his obligations as the Premises Licence Holder.

When asked directly whether he had any further illicit tobacco on the premises he denied it even though he was standing just by it.

Supplying illicit tobacco is a serious matter. It brings crime into the area and has health and safety implications.

On the first visit prior to him having the licence illegal products were found and it appeared to the officers that alcohol was already being sold prior to the grant of a licence. However, on this occasion's officers dealt with the matter in an advisory capacity.

Clearly Mr MUSTATEA has little regard for his obligations and the law.

Mr MUSTATEA has had no previous dealing with the City Councils' enforcement agencies other than work generated by these two incidents following the original complaint that alcohol was being sold without a licence.

Selling and dealing in illicit tobacco is a serious matter; no duty would have been paid on the items, it undermines legitimate business and the unknown provenance of illicit products can have health implications.

Taking the above matters into consideration the Licensing Sub Committee is asked to consider this application for a review and take any action open to them which could be to temporarily suspend or permanently revoke the licence.

Have you made an application for review relating to the premises before

No

If yes please state the date of that application

| Day | Month | Year |
|-----|-------|------|
| | | |

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

N/A

Please tick ✓ yes

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature

Date 09/01/20

Capacity Trading Standards Enforcement Officer

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

Post town

Post Code

Telephone number (if any)

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

Notes for Guidance

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

DOCUMENT 1



Birmingham
City Council

SAO
Stephan Mustatea

Chris Neville
Head of Licensing

No. 26386

Licensing (Enforcement) Section
P.O. Box 17013
Birmingham
B6 9ES



1 La Barot
136 Bowldon Rd
B 21 0RE

Enquiries to: Mrs S Watts

Telephone: [redacted]

Date: 21/1/19

Legislation: Licensing Act 2003

The following matters have been identified which do not comply with the above legislation:

This service is in receipt of
a complaint regarding alcohol being
sold from these premises.
You do not have a licence
at present to sell alcohol even
though you advertise white, red
and rose wine for sale per litre.
Your storage area was found to have
alcohol - (beer & ~~wine~~) which you
stated you had purchased for use
a licence may be granted.
You are advised that you commit
an offence under the above legislation.

Received by: [redacted] Authorised Officer: [redacted]
PETRONELA MUSTATEA

pto





No. 26387

Licensing (Enforcement) Section
P.O. Box 17013
Birmingham
B6 9ES



PS 26188

Chris Neville
Head of Licensing

M. La Buiset

Enquiries to: Mrs S. Wallis

Telephone:

Date: 31/7/19

Legislation: continued page 2

The following matters have been identified which do not comply with the above legislation:

If you sell alcohol / expose for
sale alcohol without a licence
to do so. Remove the advert for wine
It was also noted that there appears
to be alcohol (wine) stored in
old bottle containers with no labelling
which you stated were not for
consumption & have thrown away.

Should a licence for alcohol not
be granted, you are advised to
remove any alcohol from your premises

Received by:

Authorised Officer:

PETRONELA MUSTATICA



The Government Standard

44.40

DOCUMENT 2



No. 13267

M. STEFAN MUSTARDA
LABUFET Ltd
136 BOLLTON Rd
B21 0RE

Enquiries to: P A ELLSON

Telephone: 0121

Date: 31/7/19

Legislation:

1052- PERMISSION GIVEN TO
SEARCH - INSPECTOR
LICENSING ACT 2003, TOBACCO
AND RELATED PRODUCT 2016
STANDARDIZED PACKAGING OF
TOBACCO PRODUCTIONS 2015
FOOD SAFETY ACT 1990
INSPECTION OF PREMISES AT
ROAN STOCK ROOM - 21/10/19
1x SLEEVE DAVIDOFF. COMPLIANT
5x UNITS RED WINE IN ASDA 2010
LIMUNADE BOTTLE. DESTROYED 2/11/19
7x UNITS OF RED WINE IN BUSTARD
AQUATIQUE 5L (BABY). DESTROYED 2/11/19
BROKEN OF FOOD SAFETY LEGISLATION.

Received by:

Authorised Officer:

SEE IMPORTANT NOTICE OVERLEAF

TRADING STANDARDS
Regulation and Enforcement
PO Box 16586
Birmingham
B33 3EH



RS 26188



INVESTOR IN PEOPLE

CUSTOMER
SERVICE
EXCELLENCE



The Government Standard

47.27



Birmingham
City Council

No. 13268

M

136 BOULTON RD

Enquires to:

Paul A. Uys

Telephone: 0121

303-4332

Date:

31/7/14

Legislation:

CONTINUED FROM 13267
BELL JAR OF HOMEMADE/
ILLEGAL VODKA FOUND IN
STOCK ROOM WITH LARGE
QUANTITY OF EMPTY PLASTIC
BOTTLES, SMALL & LARGE
SAMPLE TAKEN IN SAKA
BOTTLE 1155 AND MARKED
IN PRESENCE BIANCA
COSMINA (WORKER)
INSTRUCTION TO DESTROYED VODKA
ENVIRONMENTAL HEALTH SHALL BE
INFORMED

Received by:

BYRONIA MUSTAKA

Authorised Officer:

[Redacted Signature]

SEE IMPORTANT NOTICE OVERLEAF

TRADING STANDARDS
Regulation and Enforcement
PO Box 16586
Birmingham
B33 3EH



FS 26188



INVESTOR IN PEOPLE



The Government Standard

47.97

DOCUMENT 3



Our Ref gg4/tss/9285/pae/za
Job Ref: 9447814

7 August 2019

OFFICER WARNING DO NOT IGNORE THIS LETTER

La Bufet
136 Boulton Road
Soho
Birmingham
B21 0RE

Dear Mr Stefan Mustatea

Consumer Protection Act 1987
Consumer Protection From Unfair Trading Regulations 2008
Tobacco and Related Products Regulations 2016 Standardised Packaging of Tobacco Products Regulations 2015
Trade Marks Act 1990
EU Regulations (EU) No. 1169/2011
Food Information Regulation 2014
Alcohol Liquor Duty Act 1979
Value Added Tax Act 1999
Her Magistrates Customs & Excise, Tax, Duty, Origin and associated legislation in all of its amended forms relating to Alcohol
Tobacco Products Duty Act 1974
Licensing Act 2003
Weights and Measures Act 1985 as Amended

Following the inspection of your premises by Officers Watts from BCC Licensing Section and myself, I am writing to inform you concerning the contraband (tobacco and alcohol) that was found in your premises.

Upon inspection of the retail stockroom which does form part of the retail premises, a large quantity of red wine, 45 litre was discovered. This had been decanted into plastic pop and water bottles, presumable for supply. A price list was discovered in the shop, as well as numerous empty plastic bottles been amassed ready again presumably to be filled with this contraband wine.

Your contact regarding this letter is:
Paul Ellison
Birmingham City Council
Trading Standards
PO Box 16586
Birmingham
B33 3EH



Telephone: [REDACTED]
Fax: [REDACTED]
E-mail: [REDACTED]
The Place Directorate

Continuation Sheet/...

Our Ref gg4/tss/9285/pae/za

Also an illicit "clear" alcohol spirit was discovered again ready to be sold/supplied. This discovery quite clearly breaches a vast array of Trading Standards, Licensing, Environmental Health and Custom and Excise legislation.

This legislation is primarily designed to protect the consumer and public health as well as generate income which her Majesty Government is due, and sold not be so readily and casually disregarded. The penalties for breaches can be severe and grievous.

It is not acceptable to state that such items that were found were for personal use, if they are for "personal use" they should not be in a retail premises stockroom or mixed in with what appeared to be a bottling operation and food pickling area. There are STRICT food hygiene, handling and storage regulations you MUST COMPLY with at all times.

Also 200 illicit cigarettes were found which again breaches Trading Standards Legislation. The original complaint states that you were supplying, "smuggled" alcohol to the public, indications found during this inspection would be seen to confirm this.

The Alcohol Licence that has been granted to you now to sell alcohol in the correct manor is a privilege not a right and has a number of conditions attached which you MUST comply with. Breaching the legislation may result in a review of your licence being instigated.

On this occasion it has been decided that an Officer Warning be issued. Consider this letter to be that warning. I have enclosed a number of leaflets for you which you should seriously consider reading as the licence imposes duties and obligations upon you, the limited company and all your staff.

I have however notified Environmental Health of the issues that we found.

Further inspection will be carried out and warrantied searches, this may be done with specialised equipment.

If you have any comments about the contents of this letter please do not hesitate to contact me.

Yours sincerely

Paul Ellson

Enforcement Officer

Direct Telephone Number:

Enclosures:

Continuation Sheet/...

Our Ref gg4/tss/9285/pae/za

1. BC – Sale of Alcohol in licensed premises
2. BC – Sale of Food and Drink
3. BC – Alcohol
4. BC – Tobacco Packaging, etc
5. BC – Tobacco and Nicotine Inhaling Product
6. BC – Copy of Licences
7. BC – Underage Sales
8. Refusal Book
9. Tobacco Display Poster

BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003PREMISES LICENCE

Premises Licence Number:

5092 / 1

Part 1 - Premises details:

| | |
|---|------------------------------|
| Postal address of premises, or if none, ordnance survey map reference or description La Bufet 136 Boulton Road | |
| Post town: Birmingham | Post Code: B21 0RE |
| Telephone Number: Not Specified | |
| Where the licence is time limited the dates N/A | |
| Licensable activities authorised by the licence M2 Sale of Alcohol by retail (off the premises) | |
| The times the licence authorises the carrying out of licensable activities Monday - Sunday 10:00 - 22:00 M2 | |
| The opening hours of the premises Monday - Sunday 10:00 - 22:00 | |
| Where the licence authorises supplies of alcohol whether these are on and/or off supplies Off Supplies Only | |

BIRMINGHAM CITY COUNCIL

Part 2

| | |
|--|-------------------|
| Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Mr Stefan Mustatea | |
| Post town: | Post Code: |
| Telephone Number: Not Specified | |
| Email Not Specified | |

| |
|---|
| Registered number of holder for example company number or charity number (where applicable) N/A |
|---|

| | |
|--|-------------------|
| Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Mr Stefan Mustatea | |
| Post town: | Post Code: |
| Telephone Number: N/A | |

| | |
|---|---|
| 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 19/00135/LAPER | Issuing Authority SANDWELL METROPOLITAN BOROUGH COUNCIL |

Dated 06/08/2019

SHAID YASSER
Senior Licensing Officer
For Director of Regulation and Enforcement

BIRMINGHAM CITY COUNCIL

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 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.

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

BIRMINGHAM CITY COUNCIL

Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

The Premises Licence Holder shall ensure there are strong management and security procedures in place which encompasses the four licensing objectives.

The Premises Licence Holder shall ensure that all staff are trained as appropriate in respect of relevant licensing law, the Challenge 25 Policy and the requirements and the need to demand an acceptable form of age ID.

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

The Premises Licence Holder shall ensure a CCTV system is installed inside and outside the premises.

Any person who appears drunk /aggressive will not be permitted on the premises.

No consumption of alcohol will be permitted inside the premises.

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

No enforceable conditions identified from operating schedule.

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

Notices will be displayed at the exit of the premises asking patrons to leave the premises quietly.

All deliveries will be received during the daytime to control noise nuisance.

The Designated Premises Supervisor will arrange to monitor levels from both inside and outside the premises and remedial action will be taken as appropriate.

Doors and windows will be kept closed as deemed necessary by the Designated Premises Supervisor.

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

A Challenge 25 Policy will be strictly followed by all staff.

No adult entertainment is permitted at these premises.

BIRMINGHAM CITY COUNCIL

Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

Licensing Sub Committee C resolved to grant the premises licence on the 31st July 2019, subject to the condition below:

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

There shall be no sale of single cans of beers, ciders, lagers, alcopops or premixed spirit drinks

3c) Committee conditions to promote public safety

N/A

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

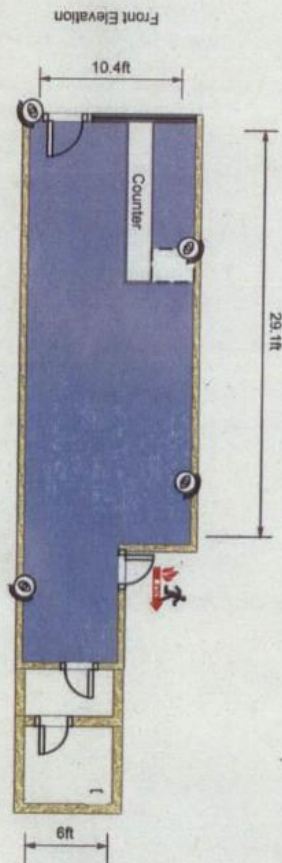
N/A

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

N/A

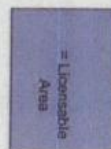
BIRMINGHAM CITY COUNCIL

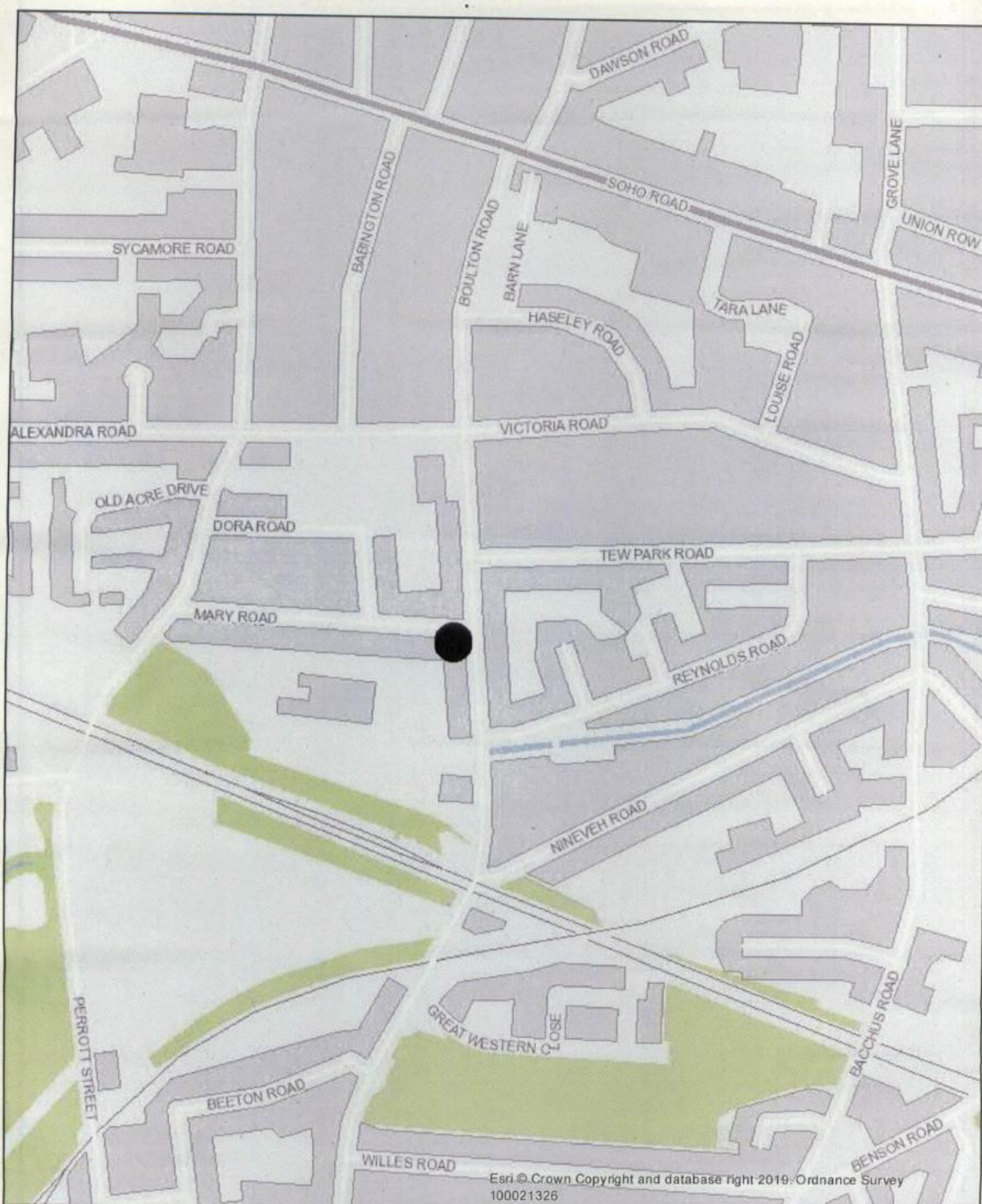
Annex 4 – Plans



Floor Plan
Scale 1:100

La Bufet Ltd
136 Boulton Road
Handsworth
Birmingham
B21 0RE





Birmingham
City Council

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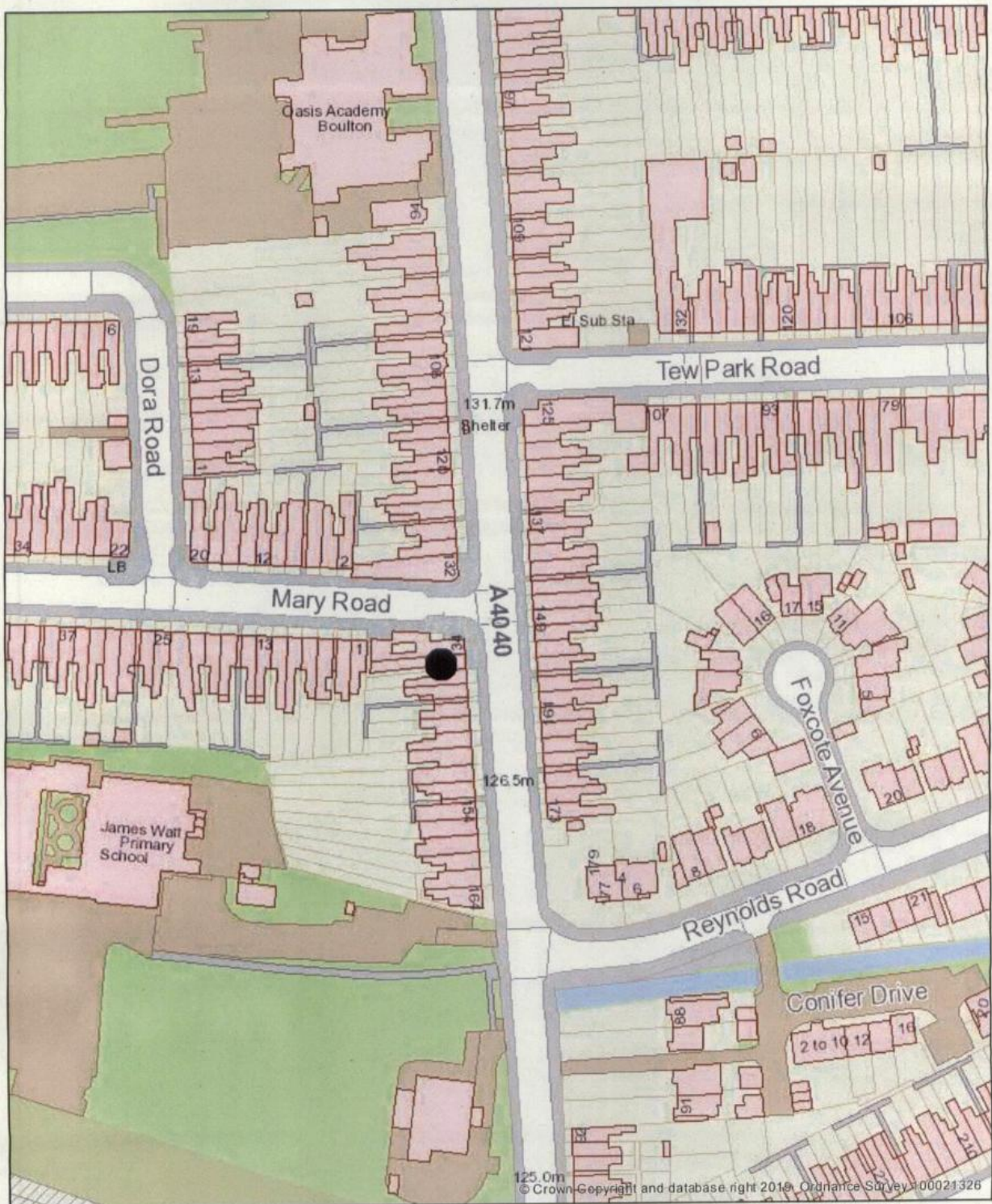
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City Council

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