

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee A
Report of:	Interim Assistant Director of Regulation & Enforcement
Date of Meeting:	Monday 11th January 2021
Subject:	Licensing Act 2003 Premises Licence – Transfer
Premises	Costcutter, 442 – 444 Birchfield Road, Perry Barr, Birmingham, B20 3JG
Ward affected:	Birchfield
Contact Officer	Bhapinder Nandhra, Senior Licensing Officer 0121 303 9896 licensing@birmingham.gov.uk

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

2. Recommendation:
To consider and determine the Transfer Application.

3. Brief Summary of Report:
A transfer application was received on 26 th November 2020 in respect of Costcutter, 442 – 444 Birchfield Road, Perry Barr, Birmingham, B20 3JG. An objection notice to this application has been received from West Midlands Police.

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:

An application to transfer a premises licence was received from Ashiq Hussain on 26th November 2020 in respect of Costcutter, 442 – 444 Birchfield Road, Perry Barr, Birmingham, B20 3JG.

Consent to transfer the licence was received from Waqas Asam.

As the application sought to have immediate effect since the time of the application, Ashiq Hussain has been responsible for the provision of licensable activities at the premises, pending the determination of the transfer application by this Sub Committee.

In line with statutory requirements the application was served on West Midlands Police who have subsequently given an objection notice to the transfer application on the basis that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective under the Licensing Act 2003.

Ashiq Hussain's transfer application is attached, see Appendix 1.

West Midlands Police Notice of objection is attached at Appendix 2.

The current Premises Licence is attached at Appendix 3.

Site location plans are attached at Appendix 4.

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.

When holding a hearing to consider an objection notice under s44 (5) a licensing authority is confined to consideration of the crime prevention objective in the Licensing Act 2003. Members must therefore only consider matters that relate to the crime prevention objective.

6. List of background documents:

Transfer Application form, Appendix 1
West Midlands Police Objection, Appendix 2
Current Premises Licence, Appendix 3
Site location Plans, Appendix 4

7. Options available

To Grant the transfer application.
To Reject the transfer application.

Application to transfer premises licence to be granted under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I/We **Ashiq Hussain**

(Insert name of applicant)

apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

3232

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description

Costcutter
442-444 Birchfield Road,
Perry Barr, Birmingham, B20 3JG

Post town

Post code

Telephone number at premises (if any)

Please give a brief description of the premises (see note 1)

Convenience Store & Off Licence

Name of current premises licence holder

Waqas Asam

Part 2 – Applicant details

In what capacity are you applying for the premises licence to be transferred to you?

a) an individual or individuals*

Please tick ☒ yes☒ please complete section (A)

b) a person other than an individual *

i. as a limited company

☐ please complete section (B)

ii. as a partnership

☐ please complete section (B)

iii. as an unincorporated association or

☐ please complete section (B)

- iv. other (for example a statutory corporation) ☐ please complete section (B)
- c) a recognised club ☐ please complete section (B)
- d) a charity ☐ please complete section (B)
- e) the proprietor of an educational establishment ☐ please complete section (B)
- f) a health service body ☐ please complete section (B)
- g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales ☐ please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in respect of an independent hospital in England ☐ please complete section (B)
- h) the chief officer of police of a police force in England and Wales ☐ please complete section (B)

*If you are applying as a person described in (a) or (b) please confirm:

Please tick ☒ yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or ☒
- I am making the application pursuant to a
 - statutory function or ☐
 - a function discharged by virtue of Her Majesty's prerogative ☐

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

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

Surname

Hussain

First names

Ashiq

Date of birth

Nationality

Current residential address if different from premises

I am 18 years old

Please tick ☒ yes



address

Post town

Post code

Daytime contact telephone number

E-mail address
(optional)

SECOND INDIVIDUAL APPLICANT (fill in as applicable)

Mr ☐

Mrs ☐

Miss ☐

Ms ☐

Other title

(for example, Rev)

Surname

First names

Date of birth

Nationality

Current
residential
address if
different from
premises
address

I am 18 years old or over

Please tick ☒ yes

☐

Post town

Post code

Daytime contact telephone number

E-mail address
(optional)

(B) OTHER APPLICANTS

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

Name
Address
Registered number (where applicable)
Description of applicant (for example partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3

Please tick ☒ yes

Are you the holder of the premises licence under an interim authority notice? ☐

Do you wish the transfer to have immediate effect? ☒

If not when would you like the transfer to take effect?

Day	Month	Year

Please tick ☒ yes

I have enclosed the consent form signed by the existing premises licence holder ☐

If you have not enclosed the consent form referred to above please give the reasons why not. What steps have you taken to try and obtain the consent?

--

Please tick ☒ yes

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003) ☒

Please tick ☒ yes

I have enclosed the premises licence ☒

If you have not enclosed premises licence referred to above please give the reasons why not.
License is lost

- I have made or enclosed payment of the fee ☒
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed ☐
- I have enclosed the premises licence or relevant part of it or explanation ☒
- I have sent a copy of this application to the chief officer of police today ☒
- I have sent a copy of this form to Home Office Immigration Enforcement today ☒

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

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

I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 2)

Part 4 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature

Date 24/11/20

Capacity Agent for the Applicant

For joint applicants signature of second applicant, second applicant's solicitor or other authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature

Date

Capacity

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) PMB LICENSING	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you by e-mail your e-mail address (optional)	

Notes for Guidance

1. Describe the premises. For example the type of premises it is, its general situation and layout and any other information which would be relevant to the licensing objectives.
2. **Right to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:**

A licence may not be held by an individual or an individual in a partnership which is not a limited liability partnership who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the

Consent of premises licence holder to transfer

I/we Waqas Asam

[full name of premises licence holder(s)]

the premises licence holder of premises licence number 3232

[insert premises licence number]

relating to

Costcutter

442-444 Birchfield Road,

Perry Barr, Birmingham, B20 3JG

[name and address of premises to which the application relates]

hereby give my consent for the transfer of premises licence number

3232

[insert premises licence number]

to

Ashiq Hussain

[full name of transferee]

signed

name

(please print)

Waqas Asam

dated

18/11/20

From: bw licensing

Sent: 10 December 2020 13:49

To: Licensing Online

Subject: RE: [External]: RE - Trans/DPS APPn - COSTCUTTER - 424 -444 Birchfield Road Perry Barr
Birmingham B20 3JG LIC/NO - 3232

Licensing,

West Midlands Police object to this transfer.

The premises is subject to enforcement action following a warrant executed at the premises.

The proposed licence holder already has ties to this premises. This means there will not be a new operator at the premises and practices which have occurred here may continue.

It is believed that the crime and disorder licensing objective would be undermined if this transfer proceeds, therefore, WMP object to this transfer.

Regards

Ben

2413 PC Ben Reader

Birmingham Central Licensing Team

Force Public Order & Public Safety Tactical Advisor

LICENSING ACT 2003**PREMISES LICENCE**

Premises Licence Number:

3232 / 5

Part 1 - Premises details:

Postal address of premises, or if none, ordnance survey map reference or description	
Costcutter 442-444 Birchfield Road Perry Barr	
Post town:	Post Code:
Birmingham	B20 3JG
Telephone Number:	

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 00:00 - 23:59 All

The opening hours of the premises
Monday - Sunday 00:00 - 23:59

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

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Mr Waqas Asam	
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 Waqas Asam	
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 10896	Issuing Authority BIRMINGHAM CITY COUNCIL

Dated 03/08/2020

SHAID YASSER
Senior Licensing Officer
For Director of Regulation and Enforcement

Annex 1 – Mandatory Conditions

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

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

The 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.

Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

No adult entertainment services or activities permitted on the premises at any time.

Conditions as stated below under the appropriate licensing objective.

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

The licence holder shall install and maintain internal and external CCTV, recordings of which are to be retained for thirty one days.

There will be external frontage roller shutters and the premises will be fully alarmed.

The licence holder shall ensure that any staff involved in the sale of alcohol are fully aware of their responsibilities under the Licensing Act 2003.

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

The licence holder shall ensure the premises will have fully maintained fire fighting equipment on site with a maintenance contract along with emergency lighting and smoke detectors.

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

Internal and particularly external CCTV will act as a deterrent in the terms of any anti - social activities regarding the outlet's frontage and the immediate vicinity of the premises.

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

The licence holder shall ensure the layout of the shop will give consideration to the prevention of children accessing alcohol and any alcohol displayed will not be obstructed from the view of the sales assistants.

The premises will operate a proof of age scheme via acceptable forms of identification and incorporate 'The Challenge 21' system.

The licence holder shall ensure a sales refusal book will be fully maintained at the premises at all times.

Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

The following conditions have been imposed by Licensing Sub Committee B on Tuesday 23rd January 2018, following a review of the premises:

Following the period of suspension, the training arrangements are to be reviewed at monthly intervals and refresher training arranged as and when required

A comprehensive Training Programme must be implemented, and completed by all staff during the three-month period of suspension

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

3c) Committee conditions to promote public safety

N/A

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

N/A

All those employees of the premises who handle the sale of alcohol products to customers at the till must be Personal Licence Holders

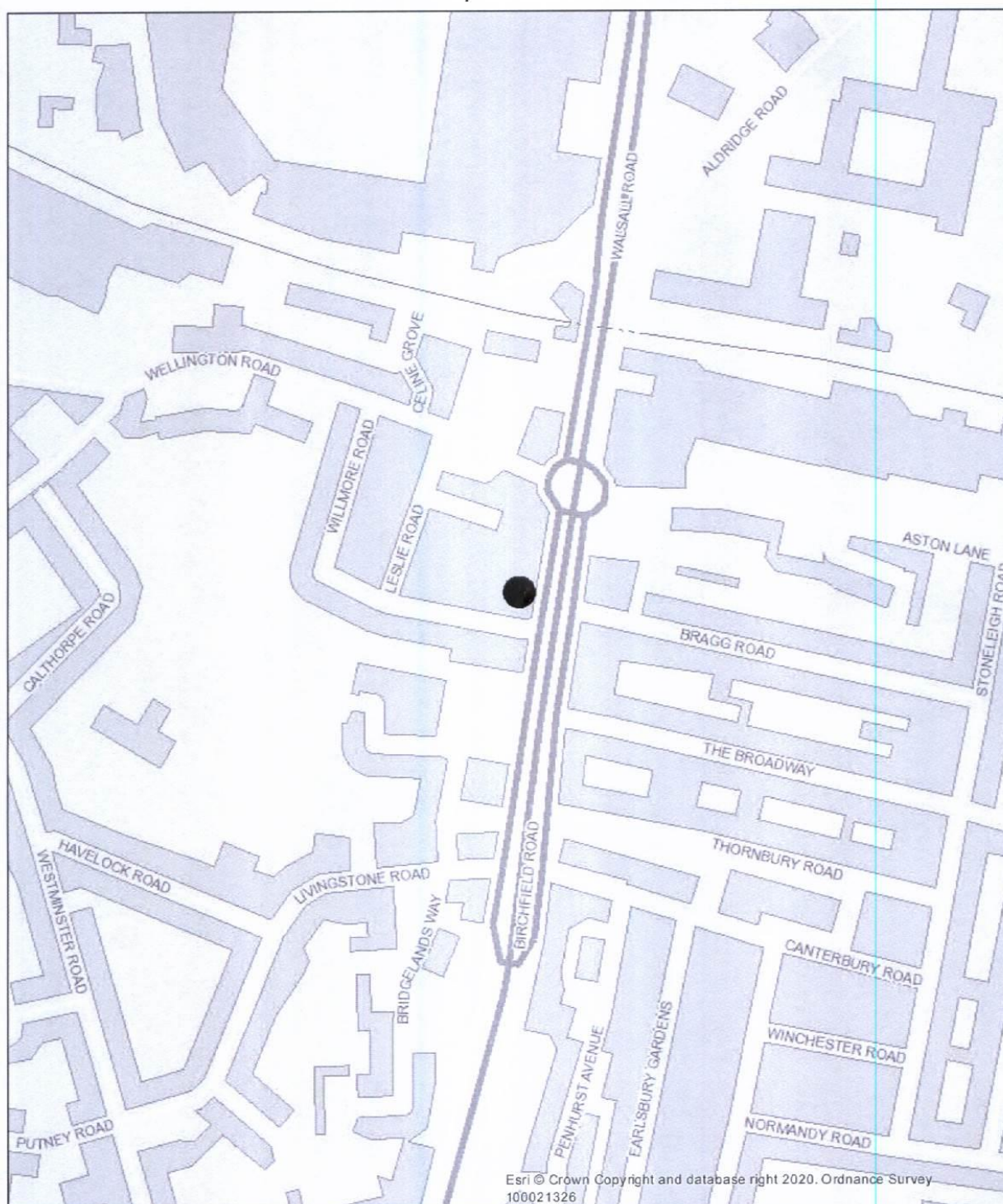
3e) Committee conditions to promote the protection of children from harm

A Challenge 25 procedure must be adopted and implemented

The arrangements regarding the Refusals Log must be comprehensively reviewed during the three-month suspension period; after the three-month suspension period the arrangements must be checked at regular intervals to ensure that the refusals system is working properly

Annex 4 – Plans

The plan of the premises with reference number **115821-3232/5** which is retained with the public register kept by Birmingham City Council and available free of charge for inspection by appointment only. Please call the Licensing Section on 0121 303 9896 to book an appointment.



Esri © Crown Copyright and database right 2020. Ordnance Survey
100021326



© Crown copyright. All rights reserved. Birmingham City Council 100021326 (2019).
You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.
© GeoPerspectives, supplied by Bluesky International Ltd
Cities Revealed® copyright by The GeoInformation® Group, 2014 and Crown Copyright © All right reserved

Date of Map Creation: 11/12/2020

Map Created By:

Scale: 1:4,000





Cities Revealed® copyright by The GeoInformation® Group, 2014 and Crown Copyright © All right reserved

2