

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C
Report of:	Assistant Director of Regulation and Enforcement
Date of Meeting:	Thursday 30th May 2019
Subject:	Licensing Act 2003 Premises Licence – Summary Review
Premises:	Stories, 30 Ladywell Walk, Birmingham, B5 4ST
Ward affected:	Bordesley & Highgate
Contact Officer:	Shaid Yasser, Senior Licensing Officer, 0121 303 9896 licensing@birmingham.gov.uk

1. Purpose of report:

A review of the premises licence is required following an application for an expedited review under Section 53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006).

2. Recommendation:

To consider the review and to determine this matter.

3. Brief Summary of Report:

An application under Section 53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) was received on 2nd May 2019 in respect of Stories, 30 Ladywell Walk, Birmingham, B5 4ST.

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:

On 2nd May 2019 Superintendent Green, on behalf of West Midlands Police, applied for a review, under Section 53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006), of the Premises Licence granted to New Era Birmingham Ltd in respect of Stories, 30 Ladywell Walk, Birmingham, B5 4ST.

The application was accompanied by the required certificate, see Appendix 1.

Within 48 hours of receipt of an application made under Section 53A, the Licensing Authority is required to consider whether it is appropriate to take interim steps pending determination of the review of the Premises Licence, such a review to be held within 28 days after the day of its receipt, review that Licence and reach a determination on that review.

Licensing Sub-Committee C met on 3rd May 2019 to consider whether to take any interim steps and resolved that the following conditions are imposed on the premises licence as an interim step:

- The premises are allowed to trade for the next 7 scheduled events.
- The licensable activity regarding the sale of alcohol shall cease at 02:30am for each scheduled event, and that the premises shall close at 03:00am.

A copy of the decision is attached at Appendix 2.

The review application was advertised, by the Licensing Authority in accordance with the regulations; the closing date for responsible authorities and other persons ended on the 20th May 2019.

No additional representations have been received from representatives of other responsible authorities or other persons.

A copy of the current Premises Licence is attached at Appendix 3.

Site location plans 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. The Licensing Authority's functions under the Licensing Act 2003 are to promote the licensing objectives: -

- 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:

Review Application and Certificate from West Midlands Police, Appendix 1
Sub-Committee Interim Steps Meeting decision of 3rd May 2019 , Appendix 2
Current Premises Licence, Appendix 3
Site location plans, Appendix 4

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
Take no action

In addition the Sub Committee will need to decide what action, if any, should be taken regarding the interim steps imposed on the 3rd May 2019.



PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I - Supt Ian Green

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

1. Premises details:
Stories
30 Ladywell Walk
Birmingham
B5 4ST

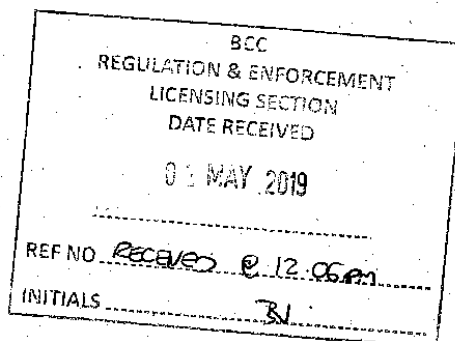
2. Premises Licence details:

Name of premise licence holder (if known): **New Era Birmingham LTD**
 Number of premise licence (if known): **3897**

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

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

(Please tick the box to confirm)



4. Details of association of the above premises with serious crime, serious disorder or both:

Stories is a night club in the Southside area in the city centre. It sits within the Southside NTE zone.

Stories has recently come to the attention of the licensing committee when they were found to be selling nitrous oxide in the premises. As a result of this application for a review, the premises put in a minor variation on the 8th April 2019, with the licence being approved on the 1st May.

That variation sought to put numerous conditions onto the premise licence, including risk assessments for new events and standard assessments for other events.

The venue is licensed for multiple activities, including the sale of alcohol twenty four hours a day, seven days a week.

At approximately 02.45 am on 29th April 2019, officers were on patrol and noticed a couple of males shoving and pushing each other outside Stories nightclub.

They went over to sort situation with the parties dispersing. Staff from the premises then approached the officers stating that there had been a large scale disorder inside the premises, where everyone was fighting and requested assistance.

As the officers were low in number the Police Sergeant informed the staff that they would have to utilise their door staff, at this point a male is carried out of the premises, by a number of other males, and is covered in blood.

It transpires that he has a slash wound to his head. As officers have tried to administer first aid they are thwarted by the persons who had carried him out, as they were hostile to the officers.

Officers reported more disorders taking place, and requested more officers and the assistance of the Police dog units, other persons were being brought out of the premises covered in blood, with officers reporting that they believed one to be unconscious.

Officers were faced with dealing with a very hostile crowd, and trying to administer first aid to the injured parties that were coming out of the premises.

Officers were requesting assistance, with 3 dog units deployed and officers having to deploy their "Parva" to protect themselves.

The sergeant on duty has described the event as one of the worse disorders he has ever witnessed, having been in the city centre for 14 months and not been met with such carnage.

The disorder continued for some time with an officer also being assaulted during the disorder.

There is significant CCTV that will be reviewed, from Police officers, to the premises and other cameras.

Camera that have been viewed from the locality shows pockets of disorder and the officer being assaulted.

West Midlands Police have spoken to the premise licence holders agent and asked why the risk assessment was not sent to us. He stated that they didn't have to as the 21 day period for appeal was not up, following the first review.

Considering the conditions were already on the licence through the minor variation they applied for West Midlands Police dispute this. However whichever the case may be what it shows is the lack of co-operation by the premises with WMP, they knew they had an event coming up and chose not to share it with WMP

This matter has been crimed as a violent disorder (section 2 public order act 1986) which is a serious crime as defined in Section 81 of the regulation of Investigatory Powers Act 2000

West Midlands Police have serious concerns over how the event was managed at these premises.

In light of the seriousness of the crime committed and the lack of control of customers, West Midlands Police are requesting the immediate suspension of the premises licence pending a full review hearing.

Signature of applicant:

Date: 2/5/2019

Rank/Capacity: Supt BW NPU.

Contact details for matters concerning this application: PC 2413 Ben Reader

Address: Licensing Dept c/o Lloyd House Police HQ

Notes for guidance:

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

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

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

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

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

West Midlands Police

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

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

Premises: Stories, 30 Ladywell Walk, Birmingham B5 4ST

Premise Licence Number: 3897

Premise Licence Holder: New Era Birmingham LTD

Designated Premise Supervisor: Mr Ryan Gough

I am a Superintendent in West Midlands Police.

I am giving this certificate because I am in the opinion that the procedures under the Licensing Act are inappropriate. The standard review procedures are thought to be inappropriate due to the seriousness of the disorder at the premises. I have carefully considered the use of the normal review procedure but I do not feel this would be appropriate in these circumstances. I am aware of the fact the premises has recently been reviewed and that they applied to have conditions imposed on the licence, but chose not to share the risk assessment with the Police for this event.

Due to the above reasons and to maintain the licensing objective of preventing crime and disorder, the normal review procedure would not be sufficient.

The concern of West Midlands Police is that if steps are not taken to consider the running of these premises they will continue to operate in the manner in which lead top the incident in the early hours of 29th April. I am conscious of Home office guidance contained within the Sec 182 guidance on the use of "Expedited Reviews" and given the emphasis that is given to use of this power to tackle serious crime and disorder, my feelings that this process is deemed appropriate are further enforced.

Signed

Duly authorised on behalf of the Chief Constable of West Midlands Police



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LICENSING SUB COMMITTEE C

FRIDAY 3 MAY 2019

Stories, 30 Ladywell Walk, Birmingham B5 4ST

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 New Era Birmingham LTD in respect of Stories, 30 Ladywell Walk, Birmingham B5 4ST this Sub-Committee determines:

The following conditions are imposed on the premise licence as an interim step, 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 premises are allowed to trade for the next 7 scheduled events.

The licensable activity regarding the sale of alcohol shall cease at 2:30 am for each scheduled event, and that the premises shall close at 3am.

The Sub-Committee's reasons for imposing these interim steps are in response to the representations submitted by the Barrister acting for the premises licence holders.

The Members heard that the premises had been operating since August 2018 without incident and that the matters which came to light at the premises on 28 April 2019 as outlined in the Chief Officer of Police's certificate and application were not as a result of the failure of management to notify the police, or for non-compliance of the conditions of their licence, or lack of security measures at the venue.

The Sub Committee were informed that the premises were hosting an external birthday event which had been risked assessed at a medium risk level that required deployment of additional door staff. However, despite the deployment of door staff on the night of the event, the DPS requested assistance from the Police Officers who were in situ of the premises due to heightened tensions occurring within the venue.

Having heard the Barrister's submissions, members were satisfied that the Designated Premises Supervisor (DPS) had taken appropriate action to deal with an unfolding situation within the premises, and felt confident that going forward, the DPS could be trusted to continue trading the scheduled in-house events as alluded to by their Barrister, particularly as extra security measures had been adopted since the night of incident to supplement the existing conditions to promote the prevention of crime and disorder, and public safety.

The Sub Committee determined that the cause of the serious disorder appeared to originate from the patrons of the private external birthday event and not from the

non-compliance of the risk assessment condition as inferred from the West Midlands Police's (WMP) application and certificate.

Members were concerned to note there appeared to be insufficient evidence to support the West Midlands Police application and certificate concerning the large scale disorder, given the time elapsed since the night of incident. The Sub Committee could not explore or examine some of the evidential material that was being relied upon by the West Midlands Police during the hearing, as it had not been submitted in advance to the Members and the Premise Licence Holders.

The Sub- committee therefore considered as a holding position between now and the full review it would necessary and reasonable to impose the interim steps volunteered by the premises licence holder rather than a suspension given the responsibility demonstrated by the venue's management to limit the operation of the premises over the forthcoming weeks with their own additional security measures in place.

The Sub-Committee considered whether it could impose other interim steps including exclusion of the sale of alcohol or other licensable activities, or removal of the Designated Premises Supervisor, however did not believe however that any of these would address the totality of issues albeit limited in detail brought to their attention by the Police.

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

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LICENSING ACT 2003PREMISES LICENCE

Premises Licence Number:

3897 / 4

Part 1 - Premises details:

Postal address of premises, or if none, ordnance survey map reference or description	
Stories 30 Ladywell Walk	
Post town:	Post Code:
Birmingham	B5 4ST
Telephone Number:	

Where the licence is time limited the dates
N/A

Licensable activities authorised by the licence	
B	Films
F	Recorded music
G	Performances of dance
H	Anything of similar description to that falling within (live music), (recorded music) or (performances of dance)
L	Late night refreshment
M3	Sale of alcohol by retail (both on & off the premises)

The times the licence authorises the carrying out of licensable activities			
Monday - Sunday	00:00	-	00:00 B , F , G , H , M3
	23:00	-	05:00 L

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

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

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Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence New Era Birmingham Ltd 20 - 22 Wenlock Road	
Post town: London	Post Code: N1 7GU
Telephone Number: Not Specified	
Email	

Registered number of holder for example company number or charity number (where applicable) 11213450
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Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Mr Ryan Gough	
Post town:	Post Code:
Telephone Number:	

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 10971	Issuing Authority BIRMINGHAM CITY COUNCIL

Dated 01/05/2019

SHAID YASSER
Senior Licensing Officer
For Director of Regulation and Enforcement

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Annex 1 – Mandatory Conditions

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

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

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

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

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

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

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price. (2) In this condition:— (a) "permitted price" is the price found by applying the formula $P = D + (D \times V)$, where— (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol; (b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence— (i) the holder of the premises licence, (ii) the designated premises supervisor (if any) in respect of such a licence, or (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence; (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994. (3) Where

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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.

The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendation made: (a) By the British Board of Film Classification (BBFC), where the film has been classified by that Board, or (b) By the Licensing Authority where no classification certificate has been granted by the BBFC, or, where the licensing authority has notified the licence holder that section 20(3)(b) (s74(3)(b) for clubs) of the Licensing Act 2003 applies to the film.

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

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Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

All members of staff will receive training regarding the four licensing objectives contained in the Licensing Act 2003;

Responsible retailing of alcohol, and law regarding sales of alcohol.

Protection of children from harm and this must include how to competently check customers' identification where necessary.

Permitted hours during which licensable activities can take place and the conditions attached to the premises licence.

The training provided to staff will be recorded and each member of staff will sign and date the training records to confirm they have received and understood the training provided.
The staff training records will be kept at the premises and made available to any Responsible Authority upon request.

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

The premise is to maintain door staff profiles for all door staff working at the premises and for any door staff that have worked on the premises in the last three months.

The premise is to maintain door staff profiles for all door staff working at the premises and for any door staff that have worked on the premises in the last three months.

The door staff profile will consist of identification for the member of staff; A copy of his/her SIA badge Passport or driving licence. If the proof of identification is anything other than the photo driving licence then the member of staff will need proof of address, which must be a copy of a utility bill dated within the last six months.

Door supervisors stationed outside the front of the premises will wear hi-visibility jackets/coats and will have their SIA badge held in a clear arm sleeve. Door supervisors inside the premises will wear hi-visibility arm bands, again with their SIA badge held in a clear arm sleeve.

A CCTV system is to be installed at the premises to the specification agreed with the Licensing Department at West Midlands Police.

CCTV is to be operational whilst the premises are open and be recording continually. If a hard drive system is used the recordings are to be kept for a minimum of 31 days. CCTV images to be made available to any responsible authority on request.

If the premises uses any new promoter for any external event then for the first event the Designated Premises Supervisor will inform West Midlands Police Licensing Department at least 28 Days before the first event with a risk assessment for the event. Recommendations made to the Designated Premises Supervisor that satisfy the four licensing objectives will become conditions for that event on the premises license.

The Premises to provide a standard operating risk assessment for each night of the week to include door staff numbers and deployment plan. Premises also to provide risk assessment for all non-standard events i.e. student nights.

There shall be a zero tolerance policy in relation to drugs at the premises.

The Premises to implement a drugs policy to be made available for inspection by West Midlands Police.

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An incident book shall be kept at the premises and maintained on site at all times. It shall be made available on request to an authorised officer of the local authority or a member of police staff, which will record the following, all crimes reported to the venue, all ejection of patrons, any complaints received (of a criminal or Licensing nature), any incidents of disorder, seizure of drugs or offensive weapons, any faults in the CCTV system and any visit by a relevant authority or emergency service.

The Premises shall actively participate in the local Pub watch.

Staff and Management shall receive refresher training in relation to the licensing legislation, underage sales and drug policies and shall be fully conversant with the conditions contained in the Premises Licence.

The training records for staff to be stored and produced to a responsible authority on request.

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

The maximum occupancy level is to be agreed with West Midlands Fire Service, this figure may be varied from time to time subject to agreement with West Midlands Fire Service.

The Premises Licence Holder shall ensure a member of staff will be trained in first aid.

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

Regulated entertainment shall take place indoors only.

A zero tolerance policy towards drunken or anti-social behaviour is to be in operation on the premises at all times.

The Licence Holder is to provide responsible management at all times.

SIA registered security staff will oversee patrons arriving or departing the premises and not allow anti-social behaviour by individuals or groups. When necessary advice will be given to such patrons not to do anything which may cause annoyance or disturbance to the local community.

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

The premises will operate in accordance with all relevant legislation which promotes the protection of children from harm objectives.

The premises will adopt Challenge 25 policy for anyone appearing under 25 years of age. Only 3 recognised forms of will be accepted. Photo card driving licence Passport Pass card for over 18's

No person under 18 years will be allowed into the venue unless for a separate 'under 18' event with approval of West Midlands Police.

All events for persons under the age of 18 are classed as high risk for purposes of notification. West Midlands police to have a veto over any such event (under 18 years).

A proof of age scheme will be used at the venue and a refusal register will be in place.

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Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

N/A

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

N/A

3c) Committee conditions to promote public safety

N/A

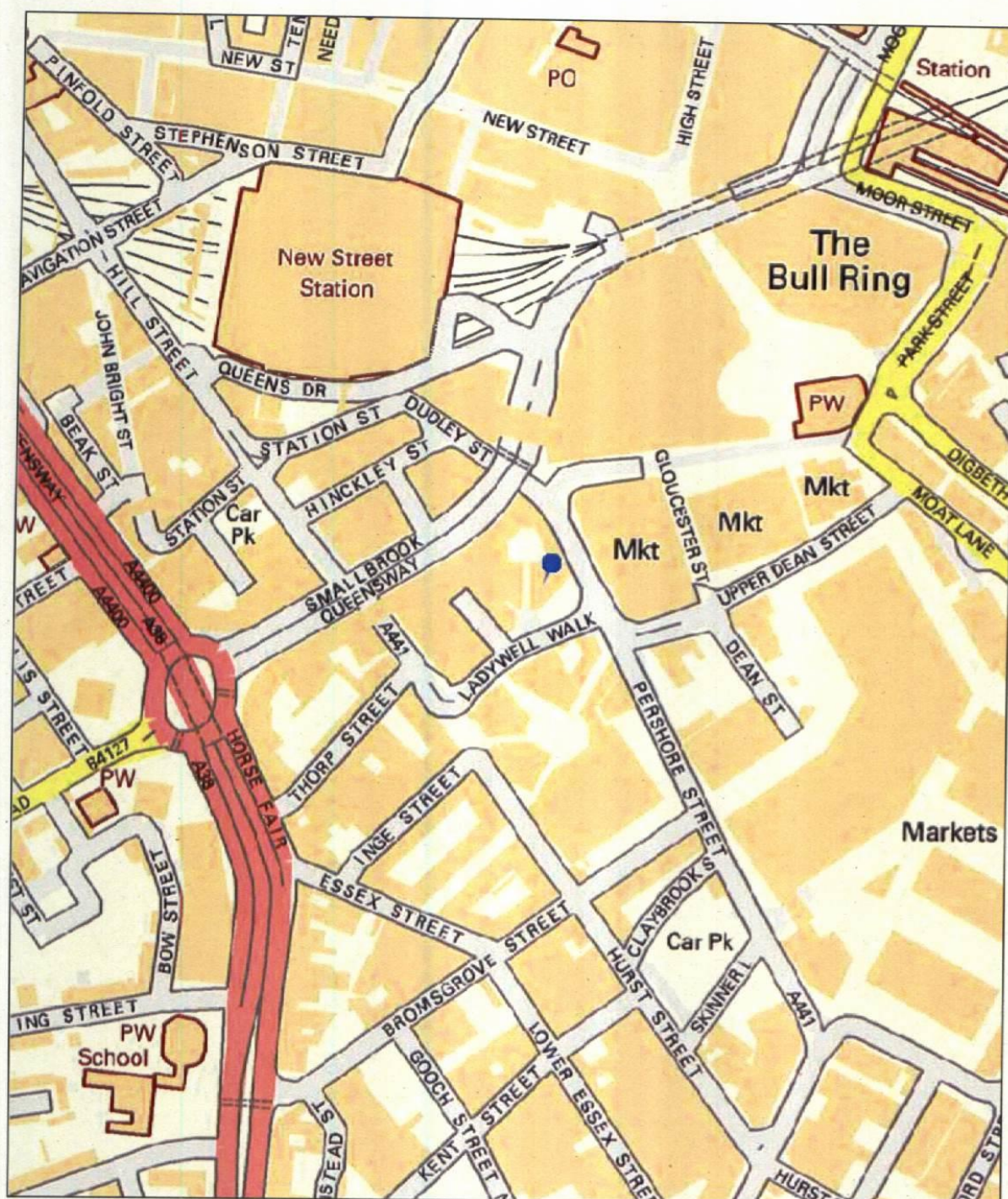
3d) Committee conditions to promote the prevention of public nuisance

N/A

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

N/A





Birmingham City Council

Map Created By:

Notes

Date of Map Creation: 01/04/2019



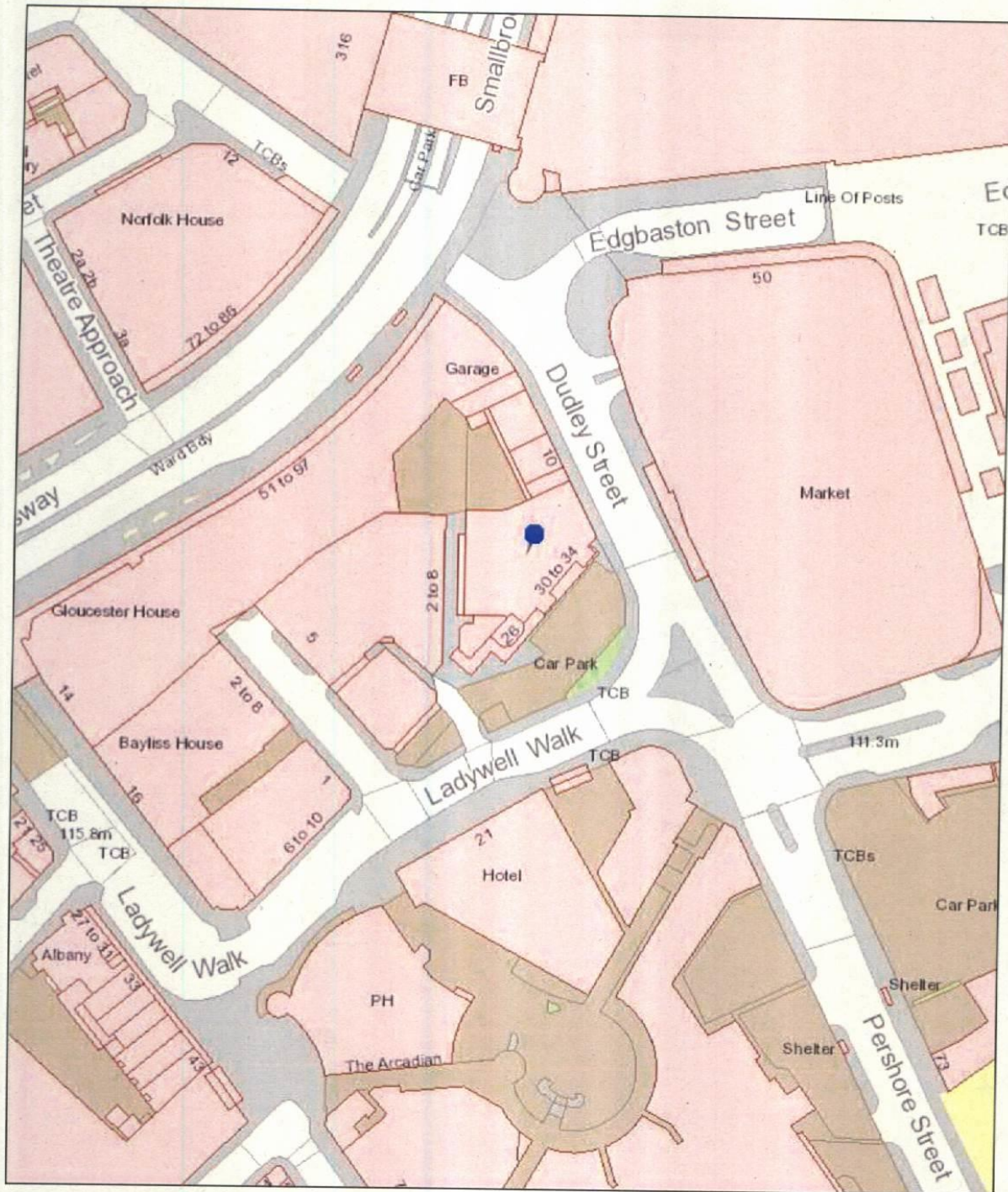
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