

Members are reminded that they must declare all relevant pecuniary and non-pecuniary interests relating to any items of business to be discussed at this meeting

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C

WEDNESDAY, 23 NOVEMBER 2016 AT 09:30 HOURS
IN COMMITTEE ROOM 1, COUNCIL HOUSE, VICTORIA SQUARE,
BIRMINGHAM, B1 1BB

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 **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

3 - 46

3 **LICENSING ACT 2003 PREMISES LICENCE – REVIEW ZARA’S BAR, 80 BROAD STREET, BIRMINGHAM, B15 1AU**

Report of the Acting Director of Regulation and Enforcement.
N.B. Application scheduled to be heard at 09:30am on Wednesday 23 November 2016

47 - 88

4 **LICENSING ACT 2003 PREMISES LICENCE – REVIEW BOXXED, 104-105 FLOODGATE STREET, DIGBETH, BIRMINGHAM, B5 6SR**

Report of the Acting Director of Regulation and Enforcement.
N.B. Application scheduled to be heard at 11:00am on Wednesday 23 November 2016.

5 **OTHER URGENT BUSINESS**

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

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Wednesday 23rd November 2016
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	Zara's Bar, 80 Broad Street, Birmingham, B15 1AU
Ward affected:	Ladywood
Contact Officer:	David Kennedy, Principal Licensing Officer, 0121 303 9896, licensing@birmingham.gov.uk

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

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

3. Brief Summary of Report:
Review application received on 30 th September 2016 from Councillor Gareth Moore in respect of Zara's Bar, 80 Broad Street, Birmingham, B15 1AU. A representation has been received Environmental Health, as a responsible authority.

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

5. Relevant background/chronology of key events:

Councillor Gareth Moore applied on 30th September 2016 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for Zara's Bar, 80 Broad Street, Birmingham, B15 1AU.

Representations have been received from Environmental Health, as a responsible authority, and from other persons. See Appendices 1 & 2.

Review application is attached, see Appendix 3.

Conditions have been agreed with Councillor Gareth Moore, Environmental Health and the premises licence holder, which are attached at Appendix 4.

The Premises Licence is attached at Appendix 5.

Site location plans are attached at Appendix 6.

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 & 2

Review Application Form, Appendix 3

Conditions agreed with Councillor Gareth Moore and Environmental Health, Appendix 4

Copy of Premises Licence, Appendix 5

Site Location Plans, Appendix 6

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.



**Formal representation on behalf of Environmental Health:
Section 51 review for a premises licence
Zara's Bar, 80 Broad Street, Birmingham, B15 1AU**

Recommendation

This report recommends conditions to be added to the premises licence.

Introduction

I am Russell Davey, Environmental Health Officer, employed by Birmingham City Council (the "BCC"). I am acting as a representative of Environmental Health, having being advised by the City Council's Licensing Section that Cllr Gareth Moore had requested a review of Zara's Bar's licence. As part of the review of the above premises, I am formally raising representation from Environmental Health under the duty for the promotion of the prevention of public nuisance and the prevention of crime and disorder.

Background

The matters referred to in this document are around the levels of fly-posting in the city which are associated and/or commissioned by Zara's Bar; and to which they gain free advertising and/or pecuniary advantage by this activity. Flyposting is a public nuisance and illegal and therefore a crime.

There is no formal definition of fly-posting, it is a colloquialism for illegal adverts and may consist of the display of advertising material on buildings and street furniture without the consent of the owner. This is contrary to the provisions of the Town and Country Planning Act 1990, the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the Highways Act 1980.

BCC has had ongoing issues with regards to flyposting for events at Zara's Bar, 80 Broad Street, Birmingham, B15 1AU. At all times the premises licence holder has been Five Rivers 2 UK Ltd.

The City Council have written to the premises licence holder, Five Rivers 2 UK Ltd, advising of their concerns about illegal advertising. Despite this illegal advertising has continued for events at Zara's Bar.

History of flyposting associated with Zara's Bar

In June and July 2016 the City Council's Highways PFI Contractor, AMEY, identified illegal advertisements affixed to street furniture for an event called "Club RNB", Launching Sunday 5th June, Every Sunday, Zaras, 80 Broad Street." On or around the same time the City Council's Pest Control Department removed 42 posters from City Council street furniture relating to the same event. A photograph illustrating the poster is shown in Appendix 1.

On 15th July 2016 being in receipt of evidence of illegal advertising for a further event at Zara's Bar called "Vibe", Environmental Health wrote to Five Rivers 2 UK Ltd advising the company of the illegal advertising. The letter warned the company that this activity was illegal and requested that the company took immediate steps to prevent the illegal advertising. The letter advised that should illegal advertising continue then Environmental Health would be minded to consider both criminal and civil proceedings and may seek a review of the company's premises licence. A copy of this letter is shown in Appendix 2. No response has been received in relation to this letter.

On the 25th July 2016 the City Council's Highways PFI contractor, AMEY, identified further illegal advertisements for the "Vibe" event. A photograph illustrating this poster is shown in Appendix 3. On 28th July 2016 Environmental Health evidenced the same advertisement affixed to street furniture in Bristol Street.

Problems with flyposting

Flyposting is illegal. Flyposting also makes an area appear run down, feel uncared for and even threatening. In November 2001, Camden Council commissioned MORI to determine how people felt about the quality of their street environment. One in ten respondents indicated that fly-posting made them feel uncomfortable, long with issues such as a lack of Police, graffiti and illegal street trading. Flyposting, in particular placarding, also affects sight lines for drivers and pedestrians using the highway. Concern about fly-posting also scored more highly than concern about young people hanging around; gangs; drug use; stealing; drunks; muggers or traffic (source Keep Britain Tidy). Flyposting is also shown to have a domino effect, causing similar businesses to follow suit and advertise their events in an attempt not to lose business to the first offending premises.

The removal of illegal advertising puts an additional financial burden on BCC. Flyposting can have a severe effect on the "Local Environmental Quality" as illegal advertisements are often left in-situ after the event or promotion has ended leading to a litter problem and making an area look run down. This can lead to an increased perception of crime by residents and visitors.

Posters put up by way of plastic ties on one side of a lamppost tend to be fewer in number as they are more expensive to produce. This modus operandi of advertising is problematic to remove and often results in the cable ties being left behind long after the posters have been removed. Cardboard advertisements are cheaper to produce and as a result tend to be printed in significantly higher volumes. Posters are usually displayed by stapling them back to back around street furniture. Due to the volumes of posters produced; this form of illegal advertising is more prolific and tends to be concentrated around major traffic junctions where a large proportion of street furniture can be affected. As a result, one company's advertisements can have a significant detrimental impact on the appearance of the street scene. Where cardboard posters are left in situ for any time, they quickly start to degrade making their removal more difficult.

Statement of Licensing Policy 2015

As part of the 2015 review of BCC's Statement of Licencing Policy, the section on flyposting has been re-written and now explicitly outlines premises licence holders responsibilities in controlling illegal advertising. It also advises about good practice in controlling illegal advertising. An extract from the 2015 Statement of Licensing Policy is shown below:

"20.7 Fly posting and Promotional Material

20.7.1 As a leading entertainment centre Birmingham often faces the widespread problem of illegal or nuisance fly posting, and littering from promotional material. This can have an impact on the prevention of public nuisance objective and prevention of crime and disorder objective within the Licensing Act 2003.

"20.7 Fly posting and Promotional Material

20.7.1 As a leading entertainment centre Birmingham often faces the widespread problem of illegal or nuisance fly posting, and littering from promotional material. This can have an impact on the prevention of public nuisance objective and prevention of crime and disorder objective within the Licensing Act 2003.

20.7.2 Existing legislation seeks to address this problem; however, it often proves ineffective in preventing this type of nuisance advertising. The Council is also concerned that some licence holders leave the advertising of regulated entertainment to events promoters and then use this to argue that they are not responsible for any illegal fly posting which occurs.

20.7.3 The Council expects responsible licence holders to ensure the licensing objectives are properly promoted when advertising regulated entertainment at their premises. For this reason it considers licence holders should outline in their operating schedules the steps to be taken to make sure that advertising of licensable activities does not cause nuisance or give rise to crime and disorder.

20.7.4 Where they are engaged, Premises Licence Holders are encouraged to have explicit agreements or contracts with named individuals or companies used to promote events to address the issue of fly posting and littering from promotional material; and to maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority or Authorised Officer on request. Where appropriate, and where consistent with the applicant's operating schedule the Council will impose conditions to this effect when its discretion to do so has been engaged."

Prevention of Public Nuisance

Local Authorities are responsible for enforcing provisions around illegal advertisements and have to remove flyposting from public land and city council street furniture as they are "the owners". Attempts have also been made by BCC to work with the owners of private property to help maintain and improve local environmental quality which often comes at a cost to the land owner. As part of this work attempts have been made to engage with licenced premises to reduce the amount of illegal flyposting that is taking place in the City and particularly with regards to Zara's Bar.

Clearly, as can be seen from the chronology provided, the premises licence holder has made no attempts to control flyposting as part of the prevention of public nuisance licensing objective but instead has contributed to a reduction of the living and working amenity of those working and residing in the area of the licensed premises as recognised in paragraph 2.15 of the Home Office Guidance issued under s.182 of LA 2013:

Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises.

In addition, flyposting is an illegal and therefore it is unreasonable for Zara's Bar to have not undertaken any meaningful works to prevent the repetition of the offence of illegal advertising in the City.

Environmental Health requests, that where the Licensing Sub Committee considers it appropriate and its discretion is engaged, the following conditions relating to the control of fly posting are inserted into the licence. This will ensure that venue clearly prohibits all fly posting in their contract terms with others; and will overtly advise the premises licence holder on their duty to prevent public nuisance and reduce crime associated with the running of the business.

Recommended Conditions

1. The Premises Licence Holder shall ensure that their premises are not in any way promoted by the use of illegal fly-posting or unauthorised advertisements attached to street furniture.

2. The Premises Licence Holder shall ensure that agreements/contracts with promoters for the use of their premises or for events to be held at their premises prohibit the use of illegal fly-posting and/or advertisements attached to street furniture, and shall take all steps reasonable to enforce such agreement/contract terms. The Premises License Holder shall maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority on request.

3. The Premises Licence Holder shall take all reasonable precautions and exercise all due diligence to ensure that no person/company promoting or providing entertainment on the premises, nor any person acting on behalf of any promoters, shall display in an unlawful manner advertisements promoting the entertainment or the premises, in particular:

a) no display of advertisements should take place on street furniture;

b) no display of advertisements should take place on premises or structures placed on, over, in or adjacent to the highway, unless the licensee has first obtained the written consent of the owner of the premises or structure. Such consent shall be shown to the Environmental Health on request.

4. The Premises Licence Holder shall remove any unlawful advertisements of events at their premises where they become aware of them or they are advised by Birmingham City Council of an illegal advertisement being displayed. Such removal shall take place immediately within 48 hrs of receiving the said notice.

I confirm this is the formal response by Environmental Health as a responsible authority. It has been agreed with the Head of Environmental Health.

Lead Officer or review:

Signed

Russell Davey, Environmental Health Officer,





Reference: WK/008366717

Date: 15th July 2016

Five Rivers 2 Uk Ltd
354 Hagley Road
Pedmore
Stourbridge
DY9 0QY

Dear Sir/Madam

Illegal advertising – Zaras Bar, 80 Broad Street, Birmingham
Highways Act 1980, Section 132
Regulation 30, Town and Country Planning (Control of Advertisements)
(England) Regulations 2007
Section 224 – Town and Country Planning Act 1990
Section 51, Licensing Act 2003

I am writing to inform you that illegal advertisements relating to an event at your business/premises have been erected and displayed at various locations around the City.

These adverts (signs, placards and posters fixed on and around the highway) contravene the above legislation. I would request that you take immediate steps to ensure that the activity is stopped and that any existing advertisements are removed. In controlling the illegal activity I trust that you will also take steps to instruct any hirers of your business/premises or agents/promoters that act on your behalf.

In the first instance, I would advise that the purpose of this letter is to give a fair and unambiguous warning to businesses that illegal advertisements, in any form or location, will not be tolerated. However, I must notify you that if the illegal advertising practice continues we will in all likelihood take the following steps against you:

- Remove all illegally displayed advertisements fixed on or around the highway. Where we do this we will undertake to recover all removal costs from you through civil debt recovery proceedings. You should be aware that the current removal cost is £52.60 for each and every individual advertisement removed by us.
- Institute criminal proceedings against you in the Magistrates Court. On conviction in the Magistrates Court this may lead to a fine of £2,500 per advertisements and a daily charge of up £250 per day during which the advertisements remain in place after conviction.
- Apply for a review of your premises licence.



I look forward to your full co-operation in ensuring that the problem is resolved and should you wish to discuss this letter further please contact me directly. If you are

Russell Davey
Environmental Health
Regulation & Enforcement
PO Box 16978
Birmingham
B2 2AX

The Place Directorate

unclear as to the potential implications of allowing the illegal advertising practice to continue I would strongly advise that you seek legal advice.

Yours faithfully


Russell Davey



Appendix 2

JRH/JW/1063661/1

17 October 2016

Birmingham City Council
Licensing Section
PO Box 17013
Birmingham
B6 9ES

BCC
REGULATION & ENFORCEMENT
LICENSING SECTION
DATE RECEIVED
19 OCT 2016
REF NO
INITIALS

wilkin chapman llp

solicitors

P.O. Box 16
Town Hall Square
Grimsby DN31 1HE

By post and email – licensing@birmingham.gov.uk

Dear Sirs

**REVIEW OF PREMISES LICENCE
ZARA'S BAR, 80 BROAD STREET, BIRMINGHAM B15 1AU**

We write on behalf of our client, Cumberland House Hotel Birmingham Limited, who is the proprietor and operator of the Hampton by Hilton Birmingham Broad Street, 200 Broad Street, Birmingham B15 1SU.

On 29 September 2016 an application for review of the Premises Licence in respect of Zara's Bar was applied for by Councillor Gareth Moore.

Please accept this letter as a representation by our client to the review.

The grounds upon which our client submits a representation are as follows:-

1. The prevention of public nuisance
2. Public safety
3. The prevention of crime and disorder

The Hampton by Hilton has operated as a hotel at this location for four years and comprises 285 bedrooms over 17 floors (floors 4-17) as well as providing other facilities including a gymnasium and a bar. It caters for a diverse mix of guests from both the UK and abroad including families, business and leisure visitors, in particular business guests visiting the city for conferences as well as general business. The age range of hotel customers is also wide ranging from children to the elderly. The bar area is retailed for the sale of alcohol daily from 08.00 to 02.00 hours the following morning. In reality the majority of the trade is for hotel residents for whom the licence is 24/7.

As will be seen from the attached Google Maps image (GM1), the hotel is located directly opposite Zara's Bar (GM2).

As a brand, Hampton by Hilton offers a 100% satisfaction guarantee. This is a genuine guarantee, such that if patrons do not enjoy a good night's sleep they obtain a refund of their accommodation costs. Such claimants and payments made under this scheme are centrally monitored and, due to the activities of the customers of Zara's Bar and the levels of disturbance emanating from the premises, my client has made refund payments to patrons of the hotel.

Wilkin Chapman LLP is a limited liability partnership registered in England and Wales, registered number OC343261.
A list of the names of members of the LLP is open to inspection at the registered office: New Oxford House, Town Hall Square, Grimsby DN31 1EX.
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Examples of the general late night disturbance include:-

1. Loud music played from inside the bar which is audible inside the hotel.
2. Announcements being made by the DJ throughout the evening both during between tracks being clearly audible inside the bedrooms of the hotel.
3. Disturbance caused by external speakers playing music in the external seating/smoking area at the front of the bar.
4. Customers shouting and making loud noises etc as they use the external seating area.
5. Customers shouting and making loud noises etc as they enter and leave the premises.
6. Noise from customers queuing outside the venue, together with disorder.
7. Altercations between door supervisor and members of the public leading to physical assaults.
8. Altercations between customers outside the premises.
9. Poor security management including failure to manage crowds/queues.
10. No adequate disposal of patrons later in the evening and at closing time.

It would appear that any existing controls to limit noise and disturbance caused by customers of Zara's Bar, particularly late at night, are inadequate.

It would also appear that existing conditions on the Premises Licence in relation to noise are not being complied with.

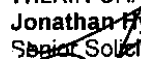
The existing operation, for the reasons outlined above – are a source of public nuisance to our client and their customers and as a result it is sought that the permitted hours for all licensable activities are limited to 02.00 hours.

Full details of the complaints records of our client will be disclosed in advance of the hearing together with a summary of the payments made to customers who have had their sleep interrupted through the operation of Zara's Bar.

Additional evidence in relation to noise nuisance shall also be provided.

We look forward to hearing from you soon with regards details of the hearing date.

Yours faithfully

WILKIN CHAPMAN LLP

Jonathan Hyldon
Senior Solicitor

Enc/ Google Earth Maps (GM1) and (GM2)

Google Maps Broad St

(GM1)



Image capture: Jun 2016 © 2016 Google

Birmingham, England
Street View - Jun 2016

Google Maps Broad St

(GM2)



Image capture: Jun 2016 © 2016 Google

Birmingham, England
Street View - Jun 2016

Appendix 3

Birmingham City Council, Licensing Section, P.O.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 GARETH MOORE

(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	
ZARA'S 80 BROAD STREET B	
Post town	Post code (if known)
BIRMINGHAM	B15 1AU
Name of premises licence holder or club holding club premises certificate (if known)	
FIVE RIVERS 2 UK LTD.	
Number of premises licence or club premises certificate (if known)	

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)



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



Please tick ✓ yes

Surname

First names

MOORE

CARETH

Please tick ✓ yes

I am 18 years old or over

**Current postal
address if
different from
premises
address**

C/O THE COUNCIL HOUSE
VICTORIA SQUARE

Post town

BIRMINGHAM

Post Code

BI BB

Daytime contact telephone number

**E-mail address
(optional)**

Name and address
1. <i>John Doe, 123 Main St, New York, NY 10001</i>
2. <i>Jane Smith, 456 Elm St, Los Angeles, CA 90001</i>
3. <i>Bob Johnson, 789 Oak St, Chicago, IL 60601</i>
4. <i>Alice Brown, 101 Pine St, San Francisco, CA 94101</i>
5. <i>Charlie White, 202 Cedar St, Houston, TX 77001</i>
6. <i>Diana Green, 303 Birch St, Phoenix, AZ 85001</i>
7. <i>Eve Black, 404 Maple St, Philadelphia, PA 19101</i>
8. <i>Frank Gray, 505 Walnut St, San Diego, CA 92101</i>
9. <i>Grace Hall, 606 Chestnut St, Dallas, TX 75201</i>
10. <i>Henry King, 707 Spruce St, Austin, TX 78701</i>
11. <i>Ivy Lee, 808 Ash St, Fort Worth, TX 76101</i>
12. <i>Jack Miller, 909 Hickory St, Columbus, OH 43201</i>
13. <i>Karen Wilson, 1010 Sycamore St, Indianapolis, IN 46201</i>
14. <i>Leo Taylor, 1111 Magnolia St, Jacksonville, FL 32201</i>
15. <i>Mia Adams, 1212 Dogwood St, San Antonio, TX 78201</i>
16. <i>Noah Baker, 1313 Redwood St, San Jose, CA 95101</i>
17. <i>Olivia Clark, 1414 Cypress St, Denver, CO 80201</i>
18. <i>Peter Evans, 1515 Juniper St, Portland, OR 97201</i>
19. <i>Quinn Harris, 1616 Fir St, Sacramento, CA 95801</i>
20. <i>Rachel King, 1717 Willow St, Kansas City, MO 64101</i>
21. <i>Samuel Lee, 1818 Cottonwood St, Omaha, NE 68101</i>
22. <i>Tina Scott, 1919 Alder St, Minneapolis, MN 55401</i>
23. <i>Victor Wright, 2020 Hawthorn St, St. Paul, MN 55101</i>
24. <i>Wendy Green, 2121 Locust St, Salt Lake City, UT 84101</i>
25. <i>Xavier Brown, 2222 Beech St, Anchorage, AK 99501</i>
26. <i>Yara White, 2323 Spruce St, Fairbanks, AK 99701</i>
27. <i>Zoe Black, 2424 Fir St, Juneau, AK 99801</i>
28. <i>Adam Gray, 2525 Cedar St, Sitka, AK 99835</i>
29. <i>Ella Hall, 2626 Birch St, Kodiak, AK 99584</i>
30. <i>Frank King, 2727 Maple St, Wrangell, AK 99994</i>
31. <i>Grace Lee, 2828 Walnut St, Petersburg, AK 99570</i>
32. <i>Henry Miller, 2929 Chestnut St, Bethel, AK 99559</i>
33. <i>Ivy Wilson, 3030 Spruce St, Barrow, AK 99563</i>
34. <i>Jack Taylor, 3131 Fir St, Kotzebue, AK 99583</i>
35. <i>Karen Adams, 3232 Cedar St, Wainwright, AK 99568</i>
36. <i>Leo Baker, 3333 Birch St, Prudhoe Bay, AK 99554</i>
37. <i>Mia Clark, 3434 Maple St, Utqiagvik, AK 99576</i>
38. <i>Noah Evans, 3535 Walnut St, Barrow, AK 99563</i>
39. <i>Olivia Harris, 3636 Chestnut St, Wainwright, AK 99568</i>
40. <i>Peter King, 3737 Spruce St, Prudhoe Bay, AK 99554</i>
41. <i>Quinn Lee, 3838 Fir St, Utqiagvik, AK 99576</i>
42. <i>Rachel Miller, 3939 Cedar St, Barrow, AK 99563</i>
43. <i>Samuel Wilson, 4040 Birch St, Wainwright, AK 99568</i>
44. <i>Tina Taylor, 4141 Maple St, Prudhoe Bay, AK 99554</i>
45. <i>Victor Adams, 4242 Walnut St, Utqiagvik, AK 99576</i>
46. <i>Wendy Baker, 4343 Chestnut St, Barrow, AK 99563</i>
47. <i>Xavier Clark, 4444 Spruce St, Wainwright, AK 99568</i>
48. <i>Yara Evans, 4545 Fir St, Prudhoe Bay, AK 99554</i>
49. <i>Zoe Harris, 4646 Cedar St, Utqiagvik, AK 99576</i>
50. <i>Adam King, 4747 Birch St, Barrow, AK 99563</i>
51. <i>Ella Lee, 4848 Maple St, Wainwright, AK 99568</i>
52. <i>Frank Miller, 4949 Walnut St, Prudhoe Bay, AK 99554</i>
53. <i>Grace Wilson, 5050 Chestnut St, Utqiagvik, AK 99576</i>
54. <i>Henry Taylor, 5151 Spruce St, Barrow, AK 99563</i>
55. <i>Ivy Adams, 5252 Fir St, Wainwright, AK 99568</i>
56. <i>Jack Baker, 5353 Cedar St, Prudhoe Bay, AK 99554</i>
57. <i>Karen Clark, 5454 Birch St, Utqiagvik, AK 99576</i>
58. <i>Leo Evans, 5555 Maple St, Barrow, AK 99563</i>
59. <i>Mia Harris, 5656 Walnut St, Wainwright, AK 99568</i>
60. <i>Noah King, 5757 Chestnut St, Prudhoe Bay, AK 99554</i>
61. <i>Olivia Lee, 5858 Spruce St, Utqiagvik, AK 99576</i>
62. <i>Peter Miller, 5959 Fir St, Barrow, AK 99563</i>
63. <i>Quinn Wilson, 6060 Cedar St, Wainwright, AK 99568</i>
64. <i>Rachel Taylor, 6161 Birch St, Prudhoe Bay, AK 99554</i>
65. <i>Samuel Adams, 6262 Maple St, Utqiagvik, AK 99576</i>
66. <i>Tina Baker, 6363 Walnut St, Barrow, AK 99563</i>
67. <i>Victor Clark, 6464 Chestnut St, Wainwright, AK 99568</i>
68. <i>Wendy Evans, 6565 Spruce St, Prudhoe Bay, AK 99554</i>
69. <i>Xavier Harris, 6666 Fir St, Utqiagvik, AK 99576</i>
70. <i>Yara King, 6767 Cedar St, Barrow, AK 99563</i>
71. <i>Zoe Lee, 6868 Birch St, Wainwright, AK 99568</i>
72. <i>Adam Miller, 6969 Maple St, Prudhoe Bay, AK 99554</i>
73. <i>Ella Wilson, 7070 Walnut St, Utqiagvik, AK 99576</i>
74. <i>Frank Taylor, 7171 Chestnut St, Barrow, AK 99563</i>
75. <i>Grace Adams, 7272 Spruce St, Wainwright, AK 99568</i>
76. <i>Henry Baker, 7373 Fir St, Prudhoe Bay, AK 99554</i>
77. <i>Ivy Clark, 7474 Cedar St, Utqiagvik, AK 99576</i>
78. <i>Jack Evans, 7575 Birch St, Barrow, AK 99563</i>
79. <i>Karen Harris, 7676 Maple St, Wainwright, AK 99568</i>
80. <i>Leo King, 7777 Walnut St, Prudhoe Bay, AK 99554</i>
81. <i>Mia Lee, 7878 Chestnut St, Utqiagvik, AK 99576</i>
82. <i>Noah Miller, 7979 Spruce St, Barrow, AK 99563</i>
83. <i>Olivia Wilson, 8080 Fir St, Wainwright, AK 99568</i>
84. <i>Peter Taylor, 8181 Cedar St, Prudhoe Bay, AK 99554</i>
85. <i>Quinn Adams, 8282 Birch St, Utqiagvik, AK 99576</i>
86. <i>Rachel Baker, 8383 Maple St, Barrow, AK 99563</i>
87. <i>Samuel Clark, 8484 Walnut St, Wainwright, AK 99568</i>
88. <i>Tina Evans, 8585 Chestnut St, Prudhoe Bay, AK 99554</i>
89. <i>Victor Harris, 8686 Spruce St, Utqiagvik, AK 99576</i>
90. <i>Wendy King, 8787 Fir St, Barrow, AK 99563</i>
91. <i>Xavier Lee, 8888 Cedar St, Wainwright, AK 99568</i>
92. <i>Yara Miller, 8989 Birch St, Prudhoe Bay, AK 99554</i>
93. <i>Zoe Wilson, 9090 Maple St, Utqiagvik, AK 99576</i>
94. <i>Adam Taylor, 9191 Walnut St, Barrow, AK 99563</i>
95. <i>Ella Adams</i>

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

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

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

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

This review is submitted as the premises in question are operating in breach of the Licensing Objectives for Public Safety and Prevention of Public Nuisance, as well as the Council's Statement of Licensing Policy.

The premises are associated with and has permitted fly-posting to take place within the City of Birmingham, promoting events which have taken place at the premises. This fly-posting has taken place at various locations around the City, with posters being attached to railings, traffic lights and other street furniture to promote events. **This has happened on at least two occasions.**

Fly-posting is a major problem for the Council, for not only is it a visual nuisance, but has cost associated with it for the removal of the placards. The placards often remain in place for a long period of time, including after the event which they were advertising, adding to this visual nuisance. The prevalence of such posters at traffic junctions and on pedestrian crossings creates a public safety concern, as this can cause a distraction and obscure pedestrians or other vehicles. This has also made photographing the placards difficult due to them not being easily accessible. These safety concerns are supported by Amey, the Council's highways maintenance contractor who have made the following statement:

"Unauthorised attachments (such as placards and advertising on lighting columns or guardrails) are a serious safety issue as they can obstruct sight lines for both vehicles and pedestrians, particularly at busy road junctions. Additionally these attachments distract drivers and can cause them to slow down or even stop to read them which presents a significant road safety risk."

Amey are proactively working with Birmingham City Council Environmental Enforcement Team as part of the Cleaner Streets initiative to try to stop this illegal activity." Eddie Fellows, Highway Network Director – Amey

Included is statistical information showing the extent of the fly-posting problem in Birmingham, which has increased in recent years, and also how many wards across the City are not meeting the Council's target. These premises, by permitted fly-posting to take place, are contributing to this problem on a regular basis.

Appendix 1 is information provided by Amey showing the number of placards that have been removed by ward between January 2014 and June 2016.

Appendix 2 is the 2015/2016 street cleansing data from Birmingham City Council, which includes a section on fly-posting and provides a breakdown by Ward. This information is from 31st May 2016.

The Council's Statement of Licensing Policy makes it clear what is expected from licensed premises at 20.7 in relation to Fly-posting:

Fly posting and Promotional Material

20.7.1 As a leading entertainment centre Birmingham often faces the widespread problem of illegal or nuisance fly posting, and littering from promotional material. This can have an impact on the prevention of public nuisance objective and the prevention of crime and disorder objective within the Licensing Act 2003.

20.7.2 Existing legislation seeks to address this problem, however, it often proves ineffective in preventing this type of nuisance advertising. The Council is also concerned that some licence holders leave the advertising of regulated entertainment to events promoters and then use this to argue that they are not

responsible for any illegal fly posting which occurs.

20.7.3 The Council expects responsible licence holders to ensure the licensing objectives are properly promoted when advertising regulated entertainment at their premises. For this reason it considers licence holders should outline in their operating schedules the steps to be taken to make sure that advertising of licensable activities does not cause nuisance or result in criminal offences give rise to crime and disorder.

20.7.4 Where they are engaged, Premises Licence Holders are encouraged to have explicit agreements or contracts with named individuals or companies used to promote events to address the issue of fly posting and littering from promotional material; and to maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority or Authorised Officer on request. Where appropriate and where consistent with the applicant's operating schedule the Council will impose conditions to this effect when its discretion to do so has been engaged.

It is clear that these premises are not complying with the Statement of Licensing Policy for fly-posting continues to occur regularly.

On this basis, I believe it is necessary for a review of the premises licence to take place due to the breaches of Public Safety and Prevention of Public Nuisance Licensing Objectives.

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

Photos 1 to 2 – Taken on 8th September 2016 at Bromford Gyratory.

Photos 3 to 4 – Taken on 8th September 2016 at Gravelly Hill/Aston Expressway

These placards were put up approximately in May 2016 for a launch event on 5th June 2016 but have remained in situ since being put up. Other locations include Tyburn Road and Bromford Lane.

Photos 5 to 6 – Taken on 26th July 2016 at the junction of Great Charles Street and Newhall Street

Other placards seen underneath the Lancaster Flyover opposite the Council offices at Lancaster Circus.

These photographs are just a sample of some of the placards that have been put up in Birmingham to promote two separate events at these premises in 2016.

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

Please tick ✓ yes

☐

If yes please state the date of that application

Day		Month		Year	
1	1	1	1	1	1

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

yes

Please tick ✓

- 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 ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

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

29/09/16

.....

Capacity

COUNCILLOR

.....

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.

PHOTO 1













Ward	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Total by Ward		
Acocks Green	0	1	12	0	0	0	6	0	0	0	38	0	2	0	97	0	0	0	0	0	0	0	0	0	8	0	2	0	2	0	170		
Aston	6	65	231	14	39	55	6	0	1	0	0	3	10	6	0	0	39	0	0	0	0	20	2	2	3	2	66	0	0	0	570		
Bartley Green	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2		
Billesley	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	16	
Bordesley Green	0	0	0	1	0	0	1	0	1	12	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Bournville	0	4	3	0	2	0	0	0	0	0	0	0	0	1	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	56	
Brandwood	0	0	0	0	0	0	0	0	1	0	0	2	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6	
Edgbaston	0	0	50	2	0	0	4	0	1	1	0	0	0	1	0	1	0	56	0	0	0	47	0	0	1	41	1	1	0	0	0	208	
Erdington	0	0	0	21	0	28	99	0	37	0	2	2	0	3	57	2	103	0	28	0	5	10	3	64	0	5	0	0	0	0	0	469	
Hall Green	0	26	40	12	0	42	30	46	0	10	0	2	1	0	1	0	0	26	0	3	0	0	0	0	0	0	0	0	0	0	0	239	
Handsworth Wood	0	0	0	0	0	0	0	0	0	2	2	0	0	0	2	2	1	0	2	1	0	0	0	0	0	0	0	0	0	0	0	14	
Harborne	0	0	20	0	0	0	2	0	0	0	1	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	39	
Hodge Hill	0	0	2	4	0	0	5	0	40	1	3	0	1	0	12	0	0	0	0	1	0	0	4	0	0	0	0	0	0	0	0	76	
Kings Norton	0	4	1	7	0	0	0	0	1	0	0	0	0	0	0	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	23	
Kingsstanding	0	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	15	
Ladywood	10	2	136	14	1	0	10	3	1	2	7	1	9	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	335	
Longbridge	0	4	3	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	11	
Lozells and East Handsworth	24	0	0	0	23	3	0	1	0	0	3	0	4	0	0	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	65	
Moseley and Kings Heath	0	0	1	0	0	0	1	0	0	1	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	12	
Nechells	1	45	27	38	32	5	0	10	42	0	0	0	1	1	3	1	9	88	33	3	54	2	1	3	1	32	13	20	67	0	0	533	
Northfield	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	11	
Oscott	0	48	0	0	0	6	0	2	30	10	29	0	0	12	0	101	12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	381	
Perry Barr	0	10	0	23	0	8	0	30	0	8	0	32	0	14	0	5	26	0	0	0	0	0	0	0	0	0	0	0	0	0	0	199	
Quinton	0	0	0	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9	
Selly Oak	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	35	
Shard End	0	0	21	15	10	24	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	75	
Sheldon	0	0	0	3	0	8	0	0	1	0	0	2	0	0	0	7	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	34	
Soho	81	39	345	45	26	42	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	609
South Yardley	0	0	1	2	0	0	0	0	5	0	9	0	4	0	2	7	0	0	0	34	1	0	0	0	0	0	0	0	0	0	0	0	114
Sparkbrook	0	5	0	10	8	0	0	0	0	0	1	0	1	1	1	0	1	70	1	0	0	0	0	0	0	0	0	0	0	0	0	161	
Springfield	0	2	0	2	0	21	0	1	1	2	0	0	3	2	1	1	10	5	4	2	4	0	0	0	0	0	0	0	0	0	0	74	
Stechford and Yardley North	0	7	5	0	20	32	0	0	0	0	7	0	41	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	143	
Stockland Green	0	0	0	48	0	100	17	21	1	0	11	5	1	10	1	4	13	0	0	0	0	0	0	0	0	0	0	0	0	0	0	232	
Sutton Four Oaks	0	0	4	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7	
Sutton New Hall	0	0	0	1	0	5	0	0	16	0	0	17	0	1	1	0	0	0	24	0	0	0	0	0	0	0	0	0	0	0	0	78	
Sutton Trinity	0	0	0	16	0	0	0	0	0	0	2	0	33	1	0	10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	79	
Sutton Vesey	9	0	0	1	0	0	3	13	48	10	3	210	0	1	41	4	1	19	0	6	11	7	1	1	6	50	0	0	0	0	0	445	
Tyburn	0	5	10	0	1	0	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	145	
Washwood Heath	0	0	0	1	0	2	0	0	1	0	15	0	0	16	1	0	157	0	0	0	0	0	0	0	0	0	0	0	0	0	0	202	
Weoley	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	

2015/16 street cleansing inspection performance

Ward (date in brackets denotes start of two-day inspection)	Litter			Fly-posting		
	2015/16	2014/15	2013/2014	2015/16	2014/15	2013/2014
Acoccks Green	3.57	9.29	8.57	0.00	0.71	0.71
Aston	5.71	11.43	12.86	3.57	1.43	4.29
Bartley Green	2.14	4.29	5.00	0.71	0.71	0.71
Billesley	5.00	0.71	1.43	0.71	0.71	0.71
Bordesley Green	11.43	14.29	10.00	4.29	2.86	2.14
Bournville	3.57	0.71	2.14	0.71	0.71	5.00
Brandwood	7.86	2.14	1.43	1.43	0.71	0.00
Edgbaston	2.14	2.14	4.29	6.43	0.71	0.00
Erdington	7.14	6.43	5.71	2.14	0.71	1.43
Hall Green	6.43	2.14	1.43	6.43	2.14	2.86
Handsworth Wood	12.86	7.14	6.43	2.14	0.00	2.14
Harborne	2.86	0.00	0.00	2.14	0.71	1.43
Hodge Hill	5.00	9.29	8.57	1.43	3.57	2.14
Kings Norton	7.14	4.29	1.43	1.43	1.43	0.00
Kingstanding	16.43	5.00	4.29	0.00	1.43	2.14
Ladywood	5.00	4.29	2.14	8.57	2.86	3.57
Longbridge	10.00	2.14	1.43	2.86	5.00	0.71
Lozells & East Handsworth	22.86	12.14	8.57	6.43	4.29	2.14
Moseley & Kings Heath	0.00	2.86	5.00	0.71	2.86	2.14
Nechells	13.57	9.29	8.57	5	2.14	2.14
Northfield	5.71	1.43	4.29	0.71	0.00	0.00
Oscott	7.14	5.00	3.57	1.43	0.00	0.71
Perry Barr	9.29	5.71	4.29	3.57	2.14	0.71
Quinton	7.14	2.86	0.71	0.71	0.00	0.71
Selly Oak	5.00	1.43	0.71	1.43	0.00	1.43
Shard End	0.71	4.29	5.00	5.71	2.14	1.43
Sheldon	1.43	2.86	3.57	0.71	0.71	1.43
Soho	14.29	7.14	7.14	4.29	3.57	2.14
South Yardley	17.14	3.57	1.43	5.00	2.86	0.00
Sparkbrook	8.57	18.57	14.29	7.14	7.86	2.86
Springfield	12.14	9.29	5.00	3.57	1.43	0.71
Stechford & Yardley North	5.71	4.29	2.86	4.29	3.57	8.57
Stockland Green	5.00	7.14	6.43	0.71	2.14	0.71
Sutton Four Oaks	0.71	1.43	0.71	1.43	0.71	0.00
Sutton New Hall	1.43	1.43	0.71	0.00	1.43	1.43
Sutton Trinity	5.00	1.43	2.86	0.00	0.00	0.00
Sutton Vesey	1.43	2.14	5.00	0.00	2.14	2.14
Tyburn	10.00	6.43	3.57	4.29	1.43	2.86
Washwood Heath	6.43	17.14	7.86	1.43	2.86	0.71
Weoley	6.43	1.43	2.14	1.43	1.43	0.71
Target (percentage of unsatisfactory inspected sites)	5	5	3.95	1	1	1
% performance of inspected wards below target	57.50	37.50	52.50	67.50	60.00	55.00

Note 1: 70 sites are inspected in each ward to reach the figures reported

Note 2: The Wards with no figures are scheduled to be inspected before the end of the 2015/16 financial year

Note 3: All 40 Wards are inspected once annually. This is currently under review, with a view to increasing the frequency

Appendix 4

From: Licensing
Subject: FW: Agreed conditions for Zara's Bar, 80 Broad Street, Birmingham

From: Councillor Gareth Moore
Sent: Thursday, November 10, 2016 5:51 PM
To: Licensing
Subject: RE: Agreed conditions for Zara's Bar, 80 Broad Street, Birmingham

Hi Bhapinder

Yes, I am happy to agree these conditions

Cheers

Gareth

COUNCILLOR GARETH MOORE

Serving Abbey Fields, Court Farm, Erdington Village, Pitts Farm, Short Heath & Wylde Green
Working for ERDINGTON all year round!!!

Conservative Group Secretary | Shadow Lead Member - Licensing & Public Protection Committee
The Council House, Victoria Square, Birmingham, B1 1BB | 0121 303 2130 | 07557 287 435 | @ErdingtonTories

From: Carl Moore
Sent: Thursday, November 10, 2016 10:37 AM
To: Russell Davey
Cc: Licensing; Councillor Gareth Moore; Mark Croxford
Subject: Fw: Agreed conditions for Zara's Bar, 80 Broad Street, Birmingham

Dear Russell,

I have liaised with my client and there legal representative Sarah Clover in relation to the attached conditions. My client agrees and accepts having placed on the current premises license the revised conditions.

Regards

Carl

Carl Moore
Director
C.N.A. Risk Management Ltd

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Please note: Incoming and outgoing e-mail messages are routinely monitored for compliance with our policy on the use of electronic communications.

From: Russell Davey
Sent: 09 November 2016 15:15
To: Carl
Cc: Licensing; Mark Croxford; Councillor Gareth Moore
Subject: Zara's Bar, 80 Broad Street, Birmingham

Dear Carl

Many thanks for your telephone call, please find attached revised version of the flyposting conditions as discussed which have been agreed by Environmental Health and Cllr Moore. The changes from the original submission have been highlighted in yellow. I would be very grateful if you could confirm as soon as possible whether or not your client is happy to accept these conditions.

Regards

Russell Davey
Environmental Health Officer
Regulation & Enforcement

Facebook: [bccenvironmentalhealth](https://www.facebook.com/bccenvironmentalhealth) Twitter: @envhealthbham Flickr: <http://www.flickr.com/photos/envhbham>

"Locally accountable and responsive fair regulation for all - achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors"

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Requested licensing conditions in relation to illegal flyposting:

1. The premises licence holder shall, as far as is reasonably practicable, ensure that events held at the premises are not in any way promoted by the use of illegal fly-posting or unauthorised advertisements attached to street furniture.
2. The premises licence holder shall ensure that agreements/contracts with promoters for the use of their premises or for events to be held at their premises prohibit the use of illegal fly-posting and/or advertisements attached to street furniture, and shall take all steps reasonable to enforce such agreement/contract terms. The Premises License Holder shall maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority on request.
3. the premises licence holder shall take all reasonable precautions and exercise all due diligence to ensure that no person/company promoting or providing entertainment on the premises, nor any person acting on behalf of any promoters, shall display in an unlawful manner advertisements promoting the entertainment or the premises, in particular:
 - a) no display of advertisements should take place on street furniture;
 - b) no display of advertisements should take place on premises or structures placed on, over, in or adjacent to the highway, unless the licensee has first obtained the written consent of the owner of the premises or structure. Such consent shall be shown to a responsible authority on request.
4. The premises licence holder shall remove any unlawful advertisements of events at their premises where they become aware of them or they are advised by Birmingham City Council, its agent(s) or West Midlands Police of an illegal advertisement being displayed. Such removal shall take place within 48 hrs of receiving the said notice.

Note: These changes from the original submission have been highlighted in yellow to assist Committee and representatives in determining the changes that we have made to our recommended conditions. This has occurred following conversations with Barristers in the whole process of these reviews and predominantly ensure that the licence holder cannot commit an offence by the action of another. These conditions enable them to take all reasonably practicable steps to avoid the offence.

Appendix 5

BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003

PREMISES LICENCE

Premises Licence Number:

4052 / 1

Part 1 - Premises details:

Postal address of premises, or if none, ordnance survey map reference or description Zara's Bar 80 Broad Street	
Post town: Birmingham	Post Code: B15 1AU
Telephone Number: Not Specified	

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

A	Plays
B	Films
C	Indoor Sporting Event
E	Live Music
F	Recorded Music
G	Performance of Dance
H	Anything similar to (e) (f) or (g)
M3	Sale of Alcohol by retail on and off the premises

The times the licence authorises the carrying out of licensable activities

Monday - Sunday	07:00	-	06:00	A , B , C , E , F , G , H , M3
	23:00	-	05:00	L

The opening hours of the premises

Monday - Sunday	07:00	-	06:30
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Where the licence authorises supplies of alcohol whether these are on and/or off supplies

On and Off Supplies

BIRMINGHAM CITY COUNCIL

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Five Rivers 2 UK Limited 354 Hagley Road Pedmore Stoubridge	
Post town: West Midlands	Post Code: DY9 0QY
Telephone Number: Not Specified	
Email N/A	

Registered number of holder for example company number or charity number (where applicable) 07421533
--

Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Miss Victoria Sherwin	
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	Issuing Authority

David Kennedy
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 responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

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

The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol:- 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 a holographic mark.

Where any of the following alcoholic drinks is sold or supplied for sale or 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) the responsible person shall ensure that it is available to customers in the following measures:-

1. Beer or cider - ½ pint;
2. Gin, rum, vodka or whisky - 25ml or 35ml; and
3. Still wine in a glass - 125ml; and

The responsible person must also ensure that customers are made aware of the availability of the aforementioned measures.

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

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.

BIRMINGHAM CITY COUNCIL

Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

CCTV to be installed and maintained to the satisfaction of West Midlands Police. The CCTV system to be in full working order at all times when the premises are open for licensable activities. The CCTV system shall record and store images for a minimum of 30 days. Images to be made available to West Midlands Police and Local Authority officers upon request.

The premises will risk assess its standard operating procedures covering seven days a week, included in this risk assessment will be any security provisions. A copy of risk assessments to be made available to West Midlands Police Licensing Department (Steelhouse Lane).

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

The use of the premises for licensable activities between 0400 and 0600 hours is subject to 7 days notice (28 days notice in respect of "risk" events) by any means to the West Midlands Police Licensing Department at Steelhouse Lane Police Station, or such other officer or Police Station as shall have been notified to the Designated Premises Supervisor in writing. A "risk" event is defined as a music event attracting a defined or special interest audience. In such case the Police shall have the right to veto the use of the premises for that event during those hours by giving notice within 3 days of notification.

External Promoted Events: If the premises has any late night external promoter event which is not part of the standard operating procedure, then a separate risk assessment will be completed and forwarded to the Licensing Department at Steelhouse Lane Police Station at least 28 days, or such other time as agreed with West Midlands Police Licensing Department, before the event. Any additional conditions (in writing) required by West Midlands Police will become a condition of the premises licence for the purposes of that event.

The premises will implement and put in practice a drugs policy and an incident log book will be kept and maintained on the premises, and will be made available for inspection by West Midlands Police and responsible authorities.

The Premises License Holder shall ensure members of staff will receive regular training in their responsibilities under the Licensing Act 2003, to include use of the proof of age scheme adopted by the premises. Such training to be documented and records shall be retained at the premises and produced to responsible authorities upon reasonable request.

The Premises licence holder will ensure that the Designated Premises Supervisor, or such other member of staff as may be nominated by him/her, attends local Pub watch (or such other similar scheme).

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

SIA registered door supervisors will be engaged at the premises in accordance with the standard operating procedures risk assessment. Door staff profiles will be retained for all staff that are working in the premises or have been working at the premises in the last 3 months. Profiles are to be proof of identity (photocopy of driving licence or passport) and proof of address (utility bill or bank statement). Proof of address is not required when proof of identity is a new photo driving licence. Profiles are to be available for inspection on request by a responsible authority.

The Premises License Holder shall ensure when door supervisors are engaged at the premises they shall wear Hi-Vis armbands at all times.

BIRMINGHAM CITY COUNCIL

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

There shall be adequate supervision of the external area, and security provision will be assessed within the standard operating procedure risk assessment (see above).

The licence holder or designated premises supervisor will ensure that music sound levels are monitored, and that regular patrols are carried out by designated members of staff, internally and externally, to limit any noise pollution during regulated entertainment in the premises.

The premises License Holder shall ensure notices are displayed on the premises asking customers to respect local residents when leaving the premises.

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

The premises will implement a Challenge 25 proof of age scheme.

If the premises wishes to hold an under 18 event, 28 days notice will be provided to the Licensing Department at Steelhouse Lane Police Station, together with a risk assessment for the event.

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Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

Conditions as stated below under the appropriate licensing objective.

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

Doors and windows: The applicant shall ensure that all doors and windows are shut during the provision of regulated entertainment save for access or egress.

Noise limiter: The applicant shall install a noise limiter at the premises to be calibrated at a level set by Environmental Health.

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

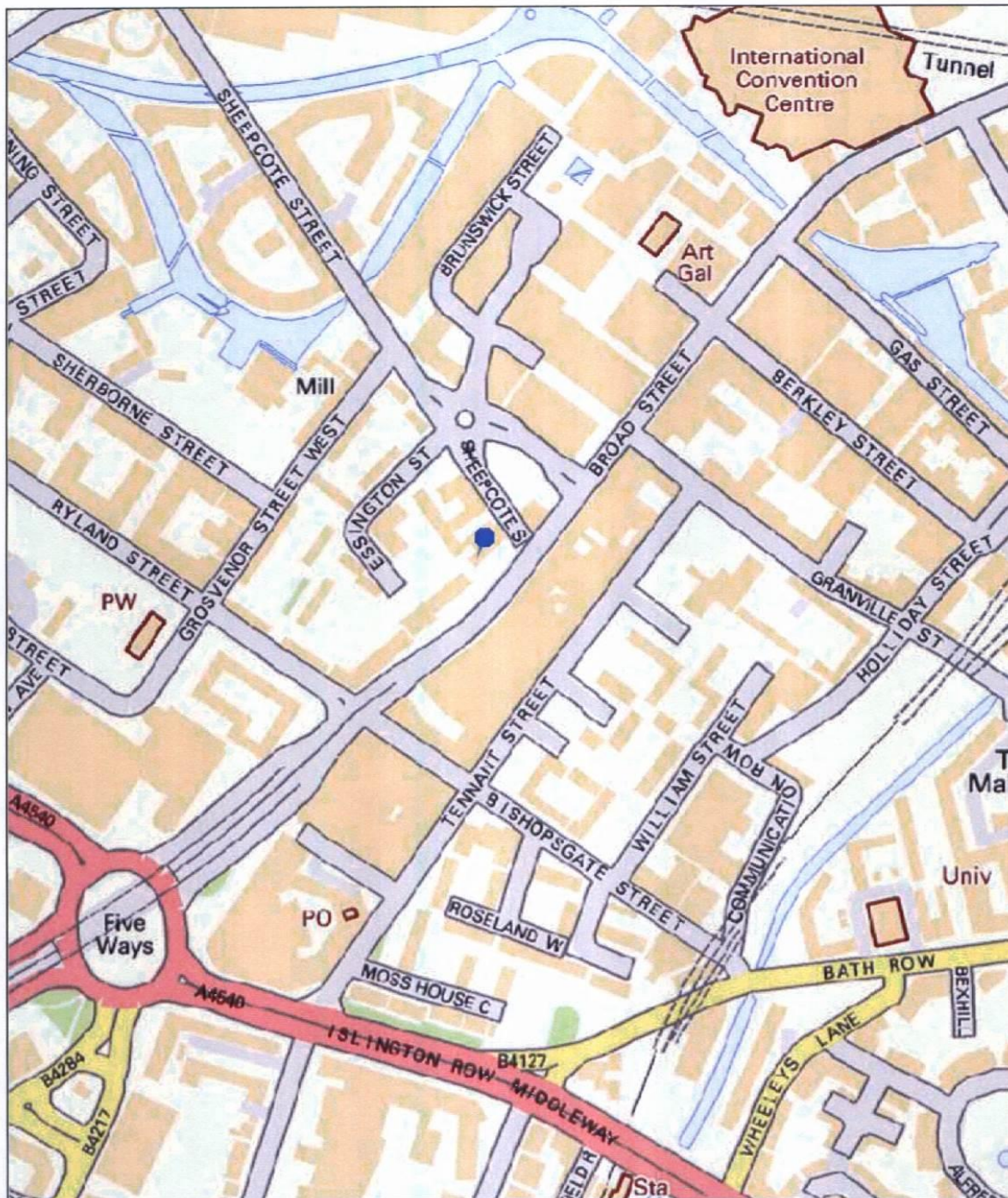
N/A

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Annex 4 – Plans

The plan of the premises with reference number **83973-4052/1** which is retained with the public register kept by Birmingham City Council and available free of charge for inspection between the hours of 9am – 4pm Monday, Tuesday and Thursday, 10am – 4pm Wednesday and 9am – 3.30pm Friday (excluding Bank Holidays etc) at the Licensing Service, Crystal Court, Aston Cross Business Village, 50 Rocky Lane, Aston, Birmingham B6 5RQ.

Appendix 6



Birmingham City Council Map Created By:

Notes

Date of Map Creation: 09/11/2016

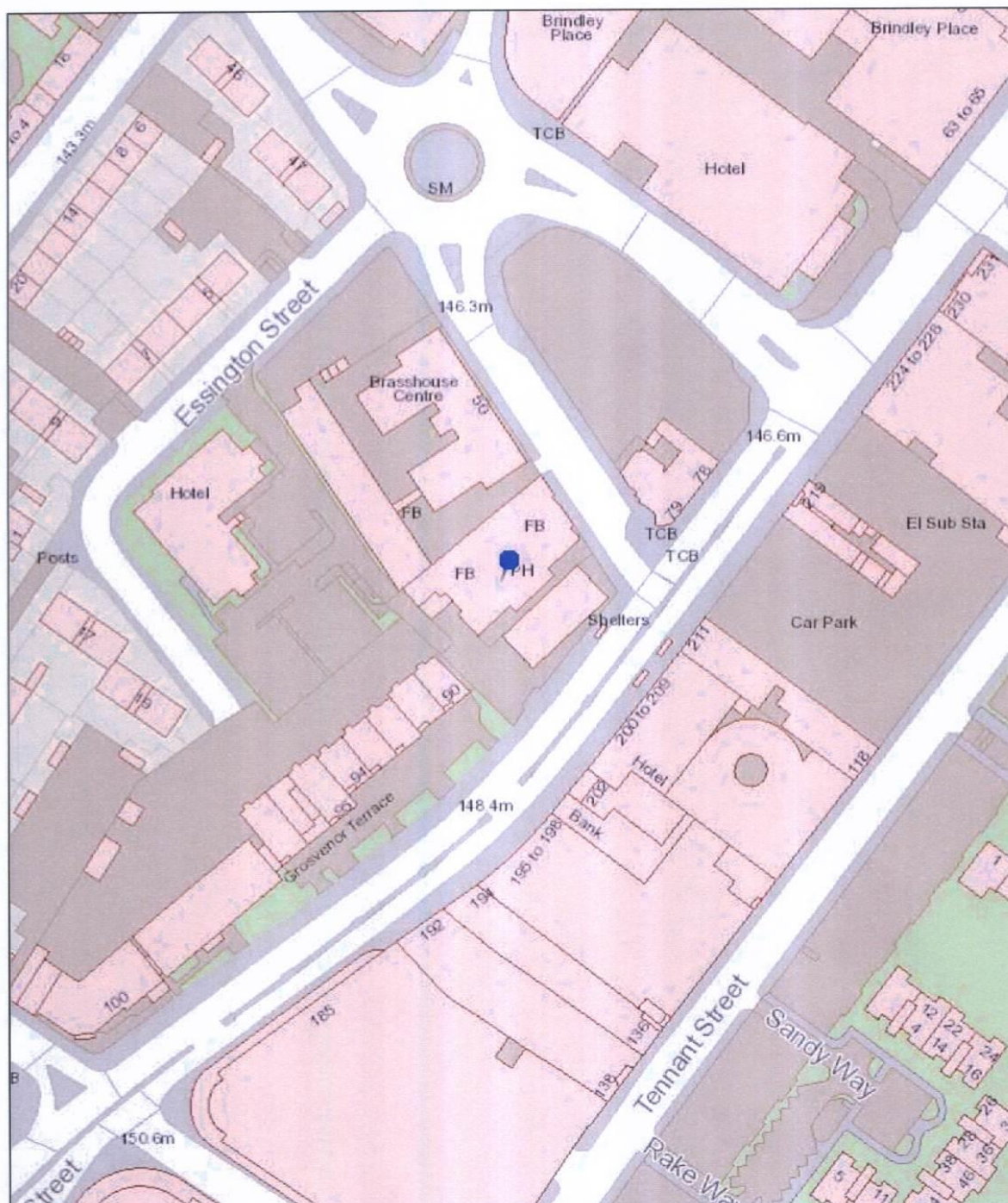


Scale:
1:4,000

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Birmingham City Council Map Created By:

Date of Map Creation: 09/11/2016

Notes



Scale:
1:1,250

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BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Wednesday 23rd November 2016
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	Boxxed, 104-105 Floodgate Street, Digbeth, Birmingham, B5 6SR
Ward affected:	Nechells
Contact Officer:	David Kennedy, Principal Licensing Officer, 0121 303 9896, licensing@birmingham.gov.uk

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

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

3. Brief Summary of Report:
Review application received on 30 th September 2016 from Councillor Gareth Moore in respect of Boxxed, 104-105 Floodgate Street, Digbeth, Birmingham, B5 6SR. A representation has been received Environmental Health, as a responsible authority.

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

<p>5. Relevant background/chronology of key events:</p> <p>Councillor Gareth Moore applied on 30th September 2016 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for Boxxed, 104-105 Floodgate Street, Digbeth, Birmingham, B5 6SR.</p> <p>A representation has been received from Environmental Health, as a responsible authority. See Appendix 1.</p> <p>Review application is attached, see Appendix 2.</p> <p>The Premises Licence is attached at Appendix 3.</p> <p>Site location plans are attached at Appendix 4.</p> <p>When carrying out its licensing functions, a licensing authority must have regard to Birmingham City Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under s182 of the Licensing Act 2003.</p> <p>The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -</p> <ul style="list-style-type: none"> a. The prevention of crime and disorder; b. Public safety; c. The prevention of public nuisance; and d. The protection of children from harm.
<p>6. List of background documents:</p> <p>Copy of the representation as detailed in Appendix 1</p> <p>Review Application Form, Appendix 2</p> <p>Copy of Premises Licence, Appendix 3</p> <p>Site Location Plans, Appendix 4</p>
<p>7. Options available</p> <p>Modify the conditions of Licence</p> <p>Exclude a Licensable activity from the scope of the Licence</p> <p>Remove the Designated Premises Supervisor</p> <p>Suspend the Licence for a period not exceeding 3 months</p> <p>Revoke the Licence</p> <p>No Action</p> <p>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.</p>



**Formal representation on behalf of Environmental Health:
Section 51 review for a premises licence
Boxxed, 104-105 Floodgate Street, Digbeth, Birmingham, B5 6SR**

Recommendation

This report recommends conditions to be added to the premises licence.

Introduction

I am Russell Davey, Environmental Health Officer, employed by Birmingham City Council (the "BCC"). I am acting as a representative of Environmental Health, having being advised by the City Council's Licensing Section that Cllr Gareth Moore had requested a review of Boxxed's licence. As part of the review of the above premises, I am formally raising representation from Environmental Health under the duty for the promotion of the prevention of public nuisance and the prevention of crime and disorder.

Background

The matters referred to in this document are around the levels of fly-posting in the city which are associated and/or commissioned by Boxxed; and to which they gain free advertising and/or pecuniary advantage by this activity. Flyposting is a public nuisance and illegal and therefore a crime.

There is no formal definition of fly-posting, it is a colloquialism for illegal adverts and may consist of the display of advertising material on buildings and street furniture without the consent of the owner. This is contrary to the provisions of the Town and Country Planning Act 1990, the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the Highways Act 1980.

BCC has had ongoing issues for a number of years with regards to illegal flyposting for events at Boxxed, 104-105 Floodgate Street, Digbeth, Birmingham, B5 6SR. During this time the Premises Licence Holder has been Daniel Fisher.

The City Council have used a range of interventions in order to try and prevent the illegal advertising. Such interventions have ranged from written warnings to inviting the company to enter into voluntary undertaking with BCC with regards to illegal

advertising. Despite these measures illegal advertising has continued for events at Boxxed.

History of flyposting associated with Boxxed.

On 21st October 2014 a letter was sent to Daniel Fisher concerning illegal advertising for Boxxed. The letter advised that should illegal advertising continue then consideration would be given to instigating criminal and/or civil proceedings. A copy of this letter can be found at appendix 1.

On 1st June 2015 a letter was sent to Bow Daniel Fisher requesting that the company remove all illegal advertising for events at their premises from City Council street furniture and invited them to enter into a voluntary undertaking with BCC agreeing not to cause, suffer, permit or assist in the display of advertisements within Birmingham other than those authorised in accordance with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. A copy of this letter can be found at appendix 2.

On the 5th June 2015 telephone correspondence were entered into with Daniel Fisher with regards to illegal advertising in telephone boxes and on Street furniture in Broad Street for an event called "Serve" on Saturday 30th May 2015 at Boxxed. A photograph illustrating this poster can be found at appendix 3.

On the 15th July 2015 Enforcement Officers from Environmental Health reported illegal advertising for an event called "Sneaks and Peaks Edition 7" on 7th September 2015 pasted up on utility boxes in Dale End, Birmingham. A photograph illustrating this poster can be found at appendix 4.

Since April 2016 the City Council's Pest Control Team have been removing illegal advertisements from City Council street furniture to aid enforcement. During this period 43 illegal advertisements for an event called "Glas" on Sunday 1st May 2016 (appendix 5) and 10 advertisement for an event called "Glas" on 28th August 2016 (appendix 6) were removed.

Problems with flyposting

Flyposting is illegal. Flyposting also makes an area appear run down, feel uncared for and even threatening. In November 2001, Camden Council commissioned MORI to determine how people felt about the quality of their street environment. One in ten respondents indicated that fly-posting made them feel uncomfortable, long with issues such as a lack of Police, graffiti and illegal street trading. Flyposting, in particular placarding, also affects sight lines for drivers and pedestrians using the

highway. Concern about fly-posting also scored more highly than concern about young people hanging around; gangs; drug use; stealing; drunks; muggers or traffic (source Keep Britain Tidy). Flyposting is also shown to have a domino effect, causing similar businesses to follow suit and advertise their events in an attempt not to lose business to the first offending premises.

The removal of illegal advertising puts an additional financial burden on BCC. Flyposting can have a severe effect on the "Local Environmental Quality" as illegal advertisements are often left in-situ after the event or promotion has ended leading to a litter problem and making an area look run down. This can lead to an increased perception of crime by residents and visitors.

Posters put up by way of plastic ties on one side of a lamppost tend to be fewer in number as they are more expensive to produce. This modus operandi of advertising is problematic to remove and often results in the cable ties being left behind long after the posters have been removed. Cardboard advertisements are cheaper to produce and as a result tend to be printed in significantly higher volumes. Posters are usually displayed by stapling them back to back around street furniture. Due to the volumes of posters produced; this form of illegal advertising is more prolific and tends to be concentrated around major traffic junctions where a large proportion of street furniture can be affected. As a result, one company's advertisements can have a significant detrimental impact on the appearance of the street scene. Where cardboard posters are left in situ for any time, they quickly start to degrade making their removal more difficult.

Statement of Licensing Policy 2015

As part of the 2015 review of BCC's Statement of Licensing Policy, the section on flyposting has been re-written and now explicitly outlines premises licence holders responsibilities in controlling illegal advertising. It also advises about good practice in controlling illegal advertising. An extract from the 2015 Statement of Licensing Policy is shown below:

"20.7 Fly posting and Promotional Material

20.7.1 As a leading entertainment centre Birmingham often faces the widespread problem of illegal or nuisance fly posting, and littering from promotional material. This can have an impact on the prevention of public nuisance objective and prevention of crime and disorder objective within the Licensing Act 2003.

"20.7 Fly posting and Promotional Material

20.7.1 As a leading entertainment centre Birmingham often faces the widespread problem of illegal or nuisance fly posting, and littering from promotional material. This

can have an impact on the prevention of public nuisance objective and prevention of crime and disorder objective within the Licensing Act 2003.

20.7.2 Existing legislation seeks to address this problem; however, it often proves ineffective in preventing this type of nuisance advertising. The Council is also concerned that some licence holders leave the advertising of regulated entertainment to events promoters and then use this to argue that they are not responsible for any illegal fly posting which occurs.

20.7.3 The Council expects responsible licence holders to ensure the licensing objectives are properly promoted when advertising regulated entertainment at their premises. For this reason it considers licence holders should outline in their operating schedules the steps to be taken to make sure that advertising of licensable activities does not cause nuisance or give rise to crime and disorder.

20.7.4 Where they are engaged, Premises Licence Holders are encouraged to have explicit agreements or contracts with named individuals or companies used to promote events to address the issue of fly posting and littering from promotional material: and to maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority or Authorised Officer on request. Where appropriate, and where consistent with the applicant's operating schedule the Council will impose conditions to this effect when its discretion to do so has been engaged."

Prevention of Public Nuisance

Local Authorities are responsible for enforcing provisions around illegal advertisements and have to remove flyposting from public land and city council street furniture as they are "the owners". Attempts have also been made by BCC to work with the owners of private property to help maintain and improve local environmental quality which often comes at a cost to the land owner. As part of this work attempts have been made to engage with licenced premises to reduce the amount of illegal flyposting that is taking place in the City and particularly with regards to Boxxed.

Clearly, as can be seen from the chronology provided, the premises licence holder has made no attempts to control flyposting as part of the prevention of public nuisance licensing objective but instead has contributed to a reduction of the living and working amenity of those working and residing in the area of the licensed premises as recognised in paragraph 2.15 of the Home Office Guidance issued under s.182 of LA 2013:

Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and

working amenity and environment of other persons living and working in the area of the licensed premises.

In addition, flyposting is an illegal and therefore it is unreasonable for Boxxed to have not undertaken any meaningful works to prevent the repetition of the offence of illegal advertising in the City.

Environmental Health requests, that where the Licensing Sub Committee considers it appropriate and its discretion is engaged, the following conditions relating to the control of fly posting are inserted into the licence. This will ensure that venue clearly prohibits all fly posting in their contract terms with others; and will overtly advise the premises licence holder on their duty to prevent public nuisance and reduce crime associated with the running of the business.

Recommended Conditions

1. The Premises Licence Holder shall ensure that their premises are not in any way promoted by the use of illegal fly-posting or unauthorised advertisements attached to street furniture.
2. The Premises Licence Holder shall ensure that agreements/contracts with promoters for the use of their premises or for events to be held at their premises prohibit the use of illegal fly-posting and/or advertisements attached to street furniture, and shall take all steps reasonable to enforce such agreement/contract terms. The Premises License Holder shall maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority on request.
3. The Premises Licence Holder shall take all reasonable precautions and exercise all due diligence to ensure that no person/company promoting or providing entertainment on the premises, nor any person acting on behalf of any promoters, shall display in an unlawful manner advertisements promoting the entertainment or the premises, in particular:
 - a) no display of advertisements should take place on street furniture;
 - b) no display of advertisements should take place on premises or structures placed on, over, in or adjacent to the highway, unless the licensee has first obtained the written consent of the owner of the premises or structure. Such consent shall be shown to the Environmental Health on request.
4. The Premises Licence Holder shall remove any unlawful advertisements of events at their premises where they become aware of them or they are advised by Birmingham City Council of an illegal advertisement being displayed. Such removal shall take place immediately within 48 hrs of receiving the said notice.

I confirm this is the formal response by Environmental Health as a responsible authority. It has been agreed with the Head of Environmental Health.

Lead Officer or review:

Signed

Russell Davey, Environmental Health Officer,



Our Reference: AON.I&E.RD.7789262.37243.CO

Date: 21st October 2014

Mr Daniel Fisher

Dear Sir

Illegal advertising – Boxxed, 104-105 Floodgate Street
Highways Act 1980, Section 132
Regulation 30, Town and Country Planning (Control of Advertisements) (England)
Regulations 2007
Section 224 – Town and Country Planning Act 1990

I am writing to inform you that illegal advertisements relating to your business/premises have been erected and displayed at various locations around the City.

These adverts (signs, placards and posters fixed on and around the highway) contravene the above legislation. I would request that you take immediate steps to ensure that the activity is stopped. In controlling the illegal activity I trust that you will also take steps to instruct any agents/promoters that act on your behalf.

In the first instance, I would advise that the purpose of this letter is to give a fair and unambiguous warning to businesses that illegal advertisements, in any form or location, will not be tolerated. However, I must notify you that if the illegal advertising practice continues we will in all likelihood take the following steps against you:

- Remove all illegally displayed advertisements fixed on or around the highway. Where we do this we will undertake to recover all removal costs from you through civil debt recovery proceedings. You should be aware that the current removal cost is £50.10 for each and every individual advertisement removed by us.
- Institute criminal proceedings against you in the Magistrates Court.

In addition, in instances where repeat offending takes place we will issue injunction proceedings in the County Court against offenders.

I look forward to your full co-operation in ensuring that the problem is resolved and should you wish to discuss this letter further please contact me directly. If you are unclear as to the potential implications of allowing the illegal advertising practice to continue I would strongly advise that you seek legal advice.

Yours faithfully



Russell Davey

Russell Davey
Environmental Health
Regulation & Enforcement
PO Box 15908
Birmingham
B2 2UD

The Place Directorate



Reference: WK/007966182

Date: 1st June 2015

Mr Daniel Fisher
Boxxed
104-105 Floodgate Street
Digbeth
Birmingham
B5 6SR

Dear Mr Fisher

Re: Illegal advertising – Boxxed

It has come to my attention that illegal advertisements for events at Boxxed are continually being displayed across the City of Birmingham in contravention of the following legislation:

- Section 132 of the Highways Act 1980
- Regulation 30 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007
- Section 224 of the Town and Country Planning Act 1990

As the premises licence holder for box I take the view that you are liable for the conduct of your promoters in respect of any advertising for events at Boxxed

Consequently I am now requiring you to remove all existing unauthorised advertising (and we will assist you in identifying these). The legislation requires unlawful advertisements to be removed within 48 hours of them being brought to your attention, however, on this occasion we are willing to extend this to 7 days from today's date, i.e. by no later than Tuesday 8th June 2015. Due to the scale of the problem we are minded to seek a formal review of your licence under the Licensing Act 2003.

Furthermore I would invite you to sign the attached undertaking agreeing that you will not, either by yourself or by encouraging or instructing anyone else, to:

"Cause, suffer, permit or assist in the display of advertisements within the City of Birmingham other than those authorised in accordance with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007."

Furthermore, in the event of future promotions being advertised unlawfully you undertake to remove such advertisements within 48 hours of receipt of written notice from the City Council. Details of the promoter (full name, address and telephone



Russell Davey
Environmental Health
Regulation & Enforcement
PO Box 16978
Birmingham
B2 2AX

The Place Directorate

number) will be provided to the City Council on request, in addition to information already provided to West Midlands Police Licensing Team.

Should you not agree to the undertaking and you and/or your promoter continue to advertise unlawfully we put you on notice that proceedings will be commenced for injunctive relief under the above legislation.

So as to enable you sufficient time to take independent legal advice I would be grateful if the undertaking could be returned by no later than 15th June 2015.

Yours sincerely

Russell Davey

Between
Birmingham City Council

And
Daniel Fisher

Undertaking

I Daniel Fisher hereby undertake, whether by myself, or by encouraging or instructing any other person from:

Causing, suffering, permitting or assisting in the display of advertisements within the City of Birmingham other than those authorised in accordance with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

Furthermore we hereby undertake to

Remove any existing unlawful advertising for Boxxed as identified to us by Birmingham City Council within 5 days of Birmingham City Council bringing this to the attention of Daniel Fisher.

Remove any unlawful advertising for future promotions at Boxxed as identified to us by Birmingham City Council within 48 hours of Birmingham City Council bringing this to the attention of Daniel Fisher. Provide Birmingham City Council with full contact details of the promoter of any unlawfully advertised event on written request.

Signed on behalf of

By

.....

.....
(print name)

Dated this day of









Appendix 2

Birmingham City Council, Licensing Section, P.O.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 GARETH MOORE
(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	
BOXED 104-105 FLOODGATE STREET DAGBETH	
Post town	Post code (if known)
BIRMINGHAM	B5 6SR
Name of premises licence holder or club holding club premises certificate (if known)	
DANIEL FISHER	
Number of premises licence or club premises certificate (if known)	

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)



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



Please tick ✓ yes

Surname

First names

MOORE

GARETH

I am 18 years old or over

Please tick ✓ yes

☒

**Current postal
address if
different from
premises
address**

C/O THE COUNCIL HOUSE
VICTORIA SQUARE

Post town

BIRMINGHAM

Post Code

31 BB

Daytime contact telephone number

**E-mail address
(optional)**

[illegible]

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

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

Please tick one or more boxes ✓

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	-------------------------------------	-------------------------------------	--------------------------

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

This review is submitted as the premises in question are operating in breach of the Licensing Objectives for Public Safety and Prevention of Public Nuisance, as well as the Council's Statement of Licensing Policy.

The premises are associated with and has permitted fly-posting to take place within the City of Birmingham, promoting events which have taken place at the premises. This fly-posting has taken place at various locations around the City, with posters being attached to railings, traffic lights and other street furniture to promote events.

Fly-posting is a major problem for the Council, for not only is it a visual nuisance, but has cost associated with it for the removal of the placards. The placards often remain in place for a long period of time, including after the event which they were advertising, adding to this visual nuisance. The prevalence of such posters at traffic junctions and on pedestrian crossings creates a public safety concern, as this can cause a distraction and obscure pedestrians or other vehicles. This has also made photographing the placards difficult due to them not being easily accessible. These safety concerns are supported by Amey, the Council's highways maintenance contractor who have made the following statement:

"Unauthorised attachments (such as placards and advertising on lighting columns or guardrails) are a serious safety issue as they can obstruct sight lines for both vehicles and pedestrians, particularly at busy road junctions. Additionally these attachments distract drivers and can cause them to slow down or even stop to read them which presents a significant road safety risk."

Amey are proactively working with Birmingham City Council Environmental Enforcement Team as part of the Cleaner Streets Initiative to try to stop this illegal activity." Eddie Fellows, Highway Network Director – Amey

Included is statistical information showing the extent of the fly-posting problem in Birmingham, which has increased in recent years, and also how many wards across the City are not meeting the Council's target. These premises, by permitted fly-posting to take place, are contributing to this problem on a regular basis.

Appendix 1 is information provided by Amey showing the number of placards that have been removed by ward between January 2014 and June 2016.

Appendix 2 is the 2015/2016 street cleansing data from Birmingham City Council, which includes a section on fly-posting and provides a breakdown by Ward. This information is from 31st May 2016.

The Council's Statement of Licensing Policy makes it clear what is expected from licensed premises at 20.7 in relation to Fly-posting:

Fly posting and Promotional Material

20.7.1 As a leading entertainment centre Birmingham often faces the widespread problem of illegal or nuisance fly posting, and littering from promotional material. This can have an impact on the prevention of public nuisance objective and the prevention of crime and disorder objective within the Licensing Act 2003.

20.7.2 Existing legislation seeks to address this problem, however, it often proves ineffective in preventing this type of nuisance advertising. The Council is also concerned that some licence holders leave the advertising of regulated entertainment to events promoters and then use this to argue that they are not responsible for any illegal fly posting which occurs.

20.7.3 The Council expects responsible licence holders to ensure the licensing objectives are properly promoted when advertising regulated entertainment at their premises. For this reason it considers licence holders should outline in their operating schedules the steps to be taken to make sure that advertising of licensable activities does not cause nuisance or result in criminal offences give rise to crime and disorder.

20.7.4 Where they are engaged, Premises Licence Holders are encouraged to have explicit agreements or contracts with named individuals or companies used to promote events to address the issue of fly posting and littering from promotional material; and to maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority or Authorised Officer on request. Where appropriate and where consistent with the applicant's operating schedule the Council will impose conditions to this effect when its discretion to do so has been engaged.

It is clear that these premises are not complying with the Statement of Licensing Policy for fly-posting has occurred.

On this basis, I believe it is necessary for a review of the premises licence to take place due to the breaches of Public Safety and Prevention of Public Nuisance Licensing Objectives.

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

Photos 1 to 2 – Taken on 23rd August 2016 at the junction of Chester Road and Sutton Road, Erdington

Photos 3 – Taken on 28th September 2016 at Haden Circus

These placards were put up at other locations, including the junction of Bristol Road and Priory Road, Dartmouth Circus, Junction 4 of the M5 and Junction 2 of the M42.

These photographs are just a sample of some of the placards that have been put up in Birmingham to promote this event at these premises in 2016. These placards are numerous in number to dominate the locations where they are put up.

I understand that this event, held on the 28th August 2016, would usually be held at Lab 11 or The Central Hall but according to social media it was held at these premises instead. It would also appear that these premises have also hosted this event on several occasions during 2014, and so it is possible that they will do so again in the future and so bring about a repeat of this fly-posting problem.

Please tick ✓ yes

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

☐

If yes please state the date of that application

Day			Month			Year		
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

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

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 ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

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 29/09/16

Capacity COUNCILLOR

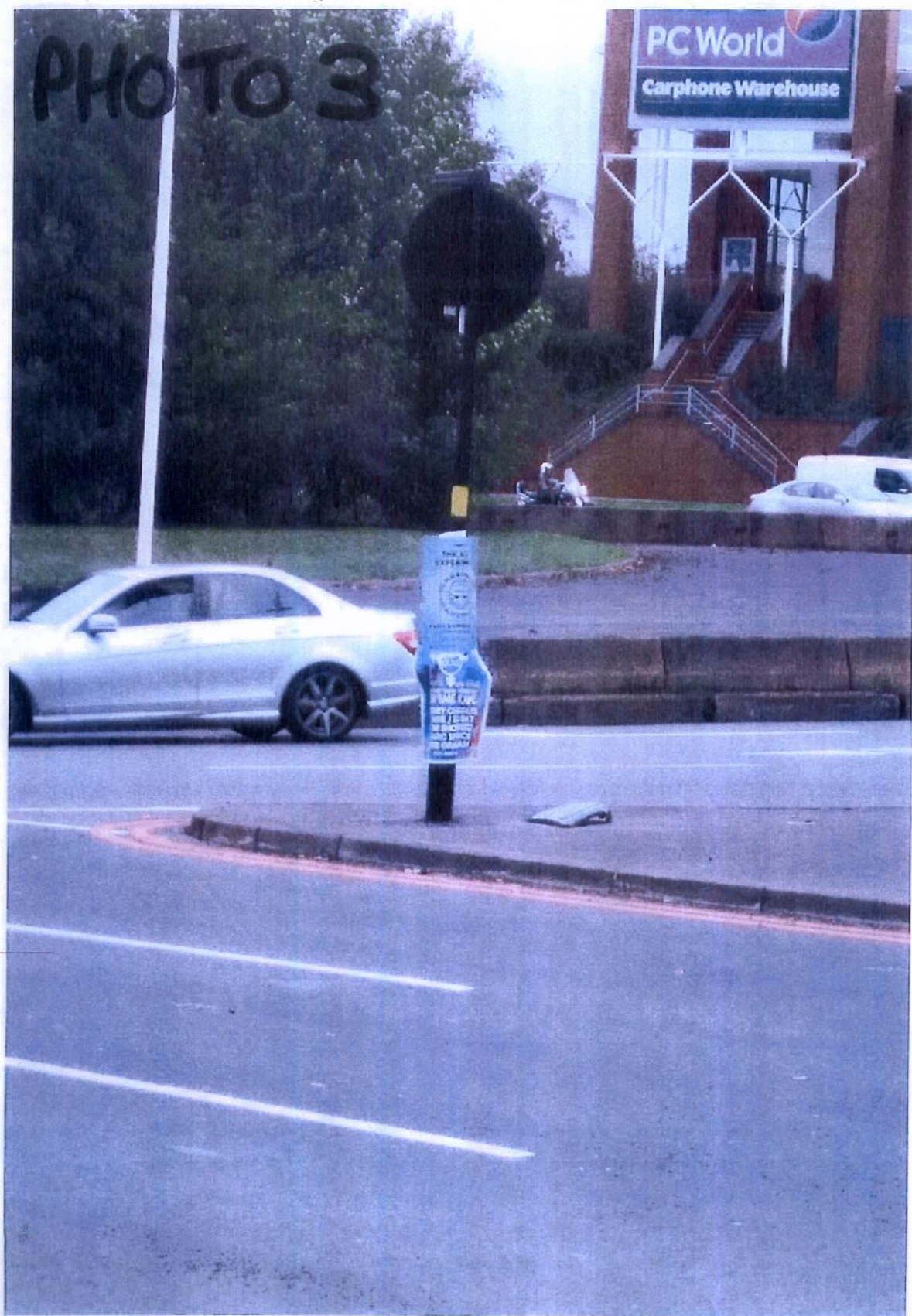
Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

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.







Ward	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Total by Ward		
Acocks Green	0	1	12	0	0	0	6	0	0	0	38	0	2	0	97	0	0	0	0	0	0	0	0	0	8	0	2	0	2	0	170		
Aston	6	65	231	14	39	55	6	0	1	0	0	3	10	6	0	0	39	0	0	0	0	20	2	2	3	2	66	0	0	0	570		
Bartley Green	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2		
Billesley	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	16	
Bordesley Green	0	0	0	1	0	0	1	0	1	12	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Bournville	0	4	3	0	2	0	0	0	0	0	0	0	0	1	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	56	
Brandwood	0	0	0	0	0	0	0	0	1	0	0	0	2	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6	
Edgbaston	0	0	50	2	0	0	4	0	1	1	0	0	0	1	0	1	0	56	0	0	0	47	0	0	1	41	1	1	0	0	0	208	
Erdington	0	0	0	21	0	28	99	0	37	0	2	2	0	3	57	2	103	0	28	0	5	10	3	64	0	5	0	0	0	0	0	469	
Hall Green	0	26	40	12	0	42	30	46	0	10	0	2	1	0	1	0	0	26	0	3	0	0	0	0	0	0	0	0	0	0	0	239	
Handsworth Wood	0	0	0	0	0	0	0	0	0	2	2	0	0	0	2	2	1	0	2	1	0	0	0	0	0	0	0	0	0	0	0	14	
Harborne	0	0	20	0	0	0	2	0	0	0	1	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	39	
Hodge Hill	0	0	2	4	0	0	5	0	40	1	3	0	1	0	12	0	0	0	0	1	0	0	4	0	0	0	0	0	0	0	0	76	
Kings Norton	0	4	1	7	0	0	0	0	1	0	1	0	0	0	0	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	23	
Kingsstanding	0	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	15	
Ladywood	10	2	136	14	1	0	10	3	1	2	7	1	9	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	335	
Longbridge	0	4	3	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	11	
Lozells and East Handsworth	24	0	0	0	23	3	0	1	0	0	3	0	4	0	0	0	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	65	
Moseley and Kings Heath	0	0	1	0	0	0	1	0	0	1	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	12	
Nechells	1	45	27	38	32	5	0	10	42	0	0	0	1	1	3	1	9	88	33	3	54	2	1	3	1	32	13	20	67	0	0	533	
Northfield	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	11	
Oscott	0	48	0	0	0	6	0	2	30	10	29	0	0	12	0	101	12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	381	
Perry Barr	0	10	0	23	0	8	0	30	0	8	0	32	0	14	0	5	26	0	0	0	0	0	0	0	0	0	0	0	0	0	0	199	
Quinton	0	0	0	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	9	
Selly Oak	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	35	
Shard End	0	0	21	15	10	24	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	75	
Sheldon	0	0	0	3	0	8	0	0	1	0	0	2	0	0	0	7	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	34	
Soho	81	39	345	45	26	42	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	609
South Yardley	0	0	1	2	0	0	0	0	5	0	9	0	4	0	2	7	0	0	0	34	1	0	0	0	0	0	0	0	0	0	0	0	114
Sparkbrook	0	5	0	10	8	0	0	0	0	0	1	0	1	1	1	0	1	70	1	0	0	0	0	0	0	0	0	0	0	0	0	161	
Springfield	0	2	0	2	0	21	0	1	1	2	0	0	3	2	1	1	10	5	4	2	4	0	0	0	0	0	0	0	0	0	0	74	
Stechford and Yardley North	0	7	5	0	20	32	0	0	0	0	7	0	41	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	143	
Stockland Green	0	0	0	48	0	100	17	21	1	0	11	5	1	10	1	4	13	0	0	0	0	0	0	0	0	0	0	0	0	0	0	232	
Sutton Four Oaks	0	0	4	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7	
Sutton New Hall	0	0	0	1	0	5	0	0	16	0	0	17	0	1	1	0	0	0	24	0	0	0	0	0	0	0	0	0	0	0	0	78	
Sutton Trinity	0	0	0	16	0	0	0	0	0	0	2	0	33	1	0	10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	79	
Sutton Vesey	9	0	0	1	0	0	3	13	48	10	3	210	0	1	41	4	1	19	0	6	11	7	1	1	6	50	0	0	0	0	0	445	
Tyburn	0	5	10	0	1	0	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	145	
Washwood Heath	0	0	0	1	0	2	0	0	1	0	15	0	0	16	1	0	157	0	0	0	0	0	0	0	0	0	0	0	0	0	0	202	
Weoley	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	

2015/16 street cleansing inspection performance

Ward (date in brackets denotes start of two-day inspection)	Litter			Fly-posting		
	2015/16	2014/15	2013/2014	2015/16	2014/15	2013/2014
Acoccks Green	3.57	9.29	8.57	0.00	0.71	0.71
Aston	5.71	11.43	12.86	3.57	1.43	4.29
Bartley Green	2.14	4.29	5.00	0.71	0.71	0.71
Billesley	5.00	0.71	1.43	0.71	0.71	0.71
Bordesley Green	11.43	14.29	10.00	4.29	2.86	2.14
Bournville	3.57	0.71	2.14	0.71	0.71	5.00
Brandwood	7.86	2.14	1.43	1.43	0.71	0.00
Edgbaston	2.14	2.14	4.29	6.43	0.71	0.00
Erdington	7.14	6.43	5.71	2.14	0.71	1.43
Hall Green	6.43	2.14	1.43	6.43	2.14	2.86
Handsworth Wood	12.86	7.14	6.43	2.14	0.00	2.14
Harborne	2.86	0.00	0.00	2.14	0.71	1.43
Hodge Hill	5.00	9.29	8.57	1.43	3.57	2.14
Kings Norton	7.14	4.29	1.43	1.43	1.43	0.00
Kingstanding	16.43	5.00	4.29	0.00	1.43	2.14
Ladywood	5.00	4.29	2.14	8.57	2.86	3.57
Longbridge	10.00	2.14	1.43	2.86	5.00	0.71
Lozells & East Handsworth	22.86	12.14	8.57	6.43	4.29	2.14
Moseley & Kings Heath	0.00	2.86	5.00	0.71	2.86	2.14
Nechells	13.57	9.29	8.57	5	2.14	2.14
Northfield	5.71	1.43	4.29	0.71	0.00	0.00
Oscott	7.14	5.00	3.57	1.43	0.00	0.71
Perry Barr	9.29	5.71	4.29	3.57	2.14	0.71
Quinton	7.14	2.86	0.71	0.71	0.00	0.71
Selly Oak	5.00	1.43	0.71	1.43	0.00	1.43
Shard End	0.71	4.29	5.00	5.71	2.14	1.43
Sheldon	1.43	2.86	3.57	0.71	0.71	1.43
Soho	14.29	7.14	7.14	4.29	3.57	2.14
South Yardley	17.14	3.57	1.43	5.00	2.86	0.00
Sparkbrook	8.57	18.57	14.29	7.14	7.86	2.86
Springfield	12.14	9.29	5.00	3.57	1.43	0.71
Stechford & Yardley North	5.71	4.29	2.86	4.29	3.57	8.57
Stockland Green	5.00	7.14	6.43	0.71	2.14	0.71
Sutton Four Oaks	0.71	1.43	0.71	1.43	0.71	0.00
Sutton New Hall	1.43	1.43	0.71	0.00	1.43	1.43
Sutton Trinity	5.00	1.43	2.86	0.00	0.00	0.00
Sutton Vesey	1.43	2.14	5.00	0.00	2.14	2.14
Tyburn	10.00	6.43	3.57	4.29	1.43	2.86
Washwood Heath	6.43	17.14	7.86	1.43	2.86	0.71
Weoley	6.43	1.43	2.14	1.43	1.43	0.71
Target (percentage of unsatisfactory inspected sites)	5	5	3.95	1	1	1
% performance of inspected wards below target	57.50	37.50	52.50	67.50	60.00	55.00

Note 1: 70 sites are inspected in each ward to reach the figures reported

Note 2: The Wards with no figures are scheduled to be inspected before the end of the 2015/16 financial year

Note 3: All 40 Wards are inspected once annually. This is currently under review, with a view to increasing the frequency

BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003

PREMISES LICENCE

Premises Licence Number:

3827 / 2

Part 1 - Premises details:

Postal address of premises, or if none, ordnance survey map reference or description Boxxed 104-105 Floodgate Street Digbeth	
Post town: Birmingham	Post Code: B5 6SR
Telephone Number: Not Specified	

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

- | | |
|----|---|
| A | Plays |
| B | Films |
| C | Indoor sporting events |
| D | Boxing or wrestling entertainment |
| E | Live music |
| F | Recorded music |
| G | Performances of dance |
| H | Anything of similar description to that falling within (live music), (recorded music) or (performances of dance) |
| I | Provision of facilities for making music |
| J | Provision of facilities for dancing |
| K | Provision of facilities for entertainment of a similar description to that falling within (facilities for making music) or (facilities for dancing) |
| L | Late night refreshment |
| M1 | Sale of alcohol by retail (on the premises) |

The times the licence authorises the carrying out of licensable activities

Monday - Sunday	10:00 - 07:00	A , B , C , D , E , F , G , H , I , J , K , M1
	23:00 - 05:00	L

The opening hours of the premises

Monday - Sunday	10:00 - 07:30
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<p>Where the licence authorises supplies of alcohol whether these are on and/or off supplies</p> <p>On Supplies Only</p>

BIRMINGHAM CITY COUNCIL

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Mr Daniel Fisher	
Post town:	Post Code:
Telephone Number:	
Email N/A	

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 Nathaniel Hanna	
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	Issuing Authority

Dated 04/06/2013

Carolyn Bennett
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 responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

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

The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol:-

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 a holographic mark.

Where any of the following alcoholic drinks is sold or supplied for sale or 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) the responsible person shall ensure that it is available to customers in the following measures:-

1. Beer or cider - ½ pint;
2. Gin, rum, vodka or whisky - 25ml or 35ml; and
3. Still wine in a glass - 125ml; and

The responsible person must also ensure that customers are made aware of the availability of the aforementioned measures.

(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.

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

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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.

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Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

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

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

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

The Licence Holder shall ensure that if any adult entertainment is introduced to the premises, then it will only be done after giving at least 14 days notice to the Police Authority.

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

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

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

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

The Licence Holder will ensure that individuals who are drunk, disorderly or both will not be permitted access to the premises.

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

The Licence Holder shall ensure that the maximum number of persons on the premises at any one time shall not exceed the number agreed with West Midlands Fire Service and West Midlands Police and fixed at any individual SAG meeting for each event and such capacity will not be exceeded.

At any time that regulated entertainment is taking place at the venue there shall be at least three SIA badged doorstaff covering each of the three fire exits from the rear of the premises and they shall all be fully covered by CCTV cameras.

The premises shall not open until West Midlands Fire Service have inspected and are satisfied.

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

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

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

The Licence Holder shall not permit noise emanating from the licensed premises to unreasonably disturb persons in the neighbourhood and in any case, will ensure that the noise levels from the event during the times authorised by this licence shall not exceed levels set at neighbouring occupied residential properties that will be agreed with Responsible Authorities.

The Licence holder shall ensure that whenever regulated entertainment takes place within the licensed premises, such entertainment will not be such as to be a public nuisance in the nearest noise sensitive or residential premises.

Noise propagation tests will be undertaken, during which the sound systems will be configured and operated in a similar manner as intended for the relevant Event. The sound sources used for the test shall be similar in character to the music likely to be produced during the relevant Event. Appropriate control limits at each sound mixer position and adjustments to sound amplification equipment will be agreed as a result of the testing to the satisfaction of the appropriate Responsible Authority.

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

No enforceable conditions identified from operating schedule.

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Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

Conditions as stated below under the appropriate licensing objective.

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

Door Supervisors profiles - The Premises is to maintain 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 a photo driving licence, then the member of staff will need proof of address, which must be a utility bill and to be dated within the last six months

Door supervisors - Door supervisors stationed outside the frontage of the premises will wear high visibility jackets/coats and will have their SIA badge held in a clear arm sleeve holder. Door supervisors inside the premises will wear hi visibility waist coats, again with the SIA badge positioned in a clear arm sleeve holder in visible view to the public

CCTV - The CCTV system is to be installed at the premises to the specification agreed with the Licensing Department at Steelhouse Lane Police Station. 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 immediately on request

External CCTV - The Licence Holder shall ensure that a fixed camera will be placed on the outside of the premises at the entrance with the ability to monitor any queue and capture a image of customers entering the venue

List of events - Premises must supply a full months list of events in writing to the Licensing Department at Steelhouse Lane Police Station a month in advance

New Promoter - If the premises use a new promoter for any event, then for the first event the Designated Premises Supervisor for the premises will arrange to meet at Steelhouse Lane Police Station, Licensing Department at least 28 days before the first event, with the risk assessments for the event. The premises will not hold any new events without the prior agreement of the Licensing Department at Steelhouse Lane Police Station. Recommendations made to the Designated Premises Supervisor that satisfy the four licensing objectives will become conditions for that event on the premises licence

Risk assessments - Premises to supply a risk assessment for all events held at the premises. A required 28 days notice unless otherwise agreed with the West Midlands Police Licensing Department at Steelhouse Lane Police Station. Included in the risk assessment is a search policy which will reflect the event risk and security deployment plan

Power of veto - If the premises wish to operate past 0400 hours, the premises must inform West Midlands Police Licensing Department at Steelhouse Lane Police Station in writing a minimum of 28 days in advance. West Midlands Police have a power of veto, if its believed that any of the four Licensing objectives may be breached

Challenge 21 Policy - The premises will adopt the Challenge 21 Scheme with appropriate signage. The premises must also record the number of refusals in a book

Incident book - The premises must operate an incident book and record all incidents that occur inside or immediately outside the premises. Incident book can be inspected at any time upon request. The incident book to be available for inspection by any regulatory body

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Staff training - All training records for all the staff, in regard to drunkenness and the protection from harm for children to be maintained, and to be available upon request from any regulatory body

Drugs Policy and Lost/Found Property Policy - Premises to operate a Drugs Policy and Lost/Found Property Policy. Copies of both to be supplied to the Licensing Department Steelhouse Lane Police Station.

Illumination - Venue to ensure the entrance area together with the queuing area to be well illuminated by secure lighting to the specification agreed with the Licensing Department at Steelhouse Lane Police Station

3c) Committee conditions to promote public safety

N/A

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

Regulated Entertainment - Regulated entertainment shall not be permitted in the external areas of the premises

Noise assessment - Prior to the use of the premises for regulated entertainment, a noise assessment shall be undertaken by a suitably qualified person, to determine the acoustic insulation properties of the building. A proposal for sound insulation to mitigate against noise breakout from the premises, to include a predication of the level of attenuation that will be achieved shall be included within this assessment. The findings of the noise assessment shall be presented in a written report and shall be submitted to the Environmental Protection Unit at 581 Tyburn Road, Erdington, Birmingham. B24 9RX. Both the noise assessment and the experience and qualifications of the noise consultant shall be met with the approval of the Environmental Protection Unit.

Sound insulation - Prior to the use of the premises for regulated entertainment, the approved scheme of sound insulation required in condition P shall be implemented in full.

Verification of level of attenuation - Prior to the use of the premises for regulated entertainment, the level of attenuation provided by the sound insulation scheme shall be verified through sound testing on site. If the level of attenuation does not meet that predicted in the noise report required by condition P then a proposal for further mitigation measures shall be submitted to and approved in writing by the Environmental Protection Unit at 581 Tyburn Road, Erdington, Birmingham, B24 9RX, the approved measures shall be implemented in full and acoustic testing carried out again to verify that the attenuation levels meet those predicted in the report required by condition P. This process shall continue until the level of attenuation meets that predicted in the noise report required in condition P or alternatively until the Environmental Protection Unit are satisfied that the sound insulation scheme and level of attenuation achieved is satisfactory

Level of noise at sensitive premises - At the facade of any noise sensitive premises, the level of the noise emanating from the entertainment premises (Leq, 5 min) shall be at least 10dB less than the background noise (LA90, 5 min measured in the absence of the entertainment noise) in octave bands from 63Hz to 4kHz.

Level of noise at sensitive premises - At the facade of any noise sensitive premises, the LAFMAX due to customer activity on the premises shall not exceed a noise level 10dB less than the background noise level (LA90, 5 min) measured in the absence of the entertainment noise.

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

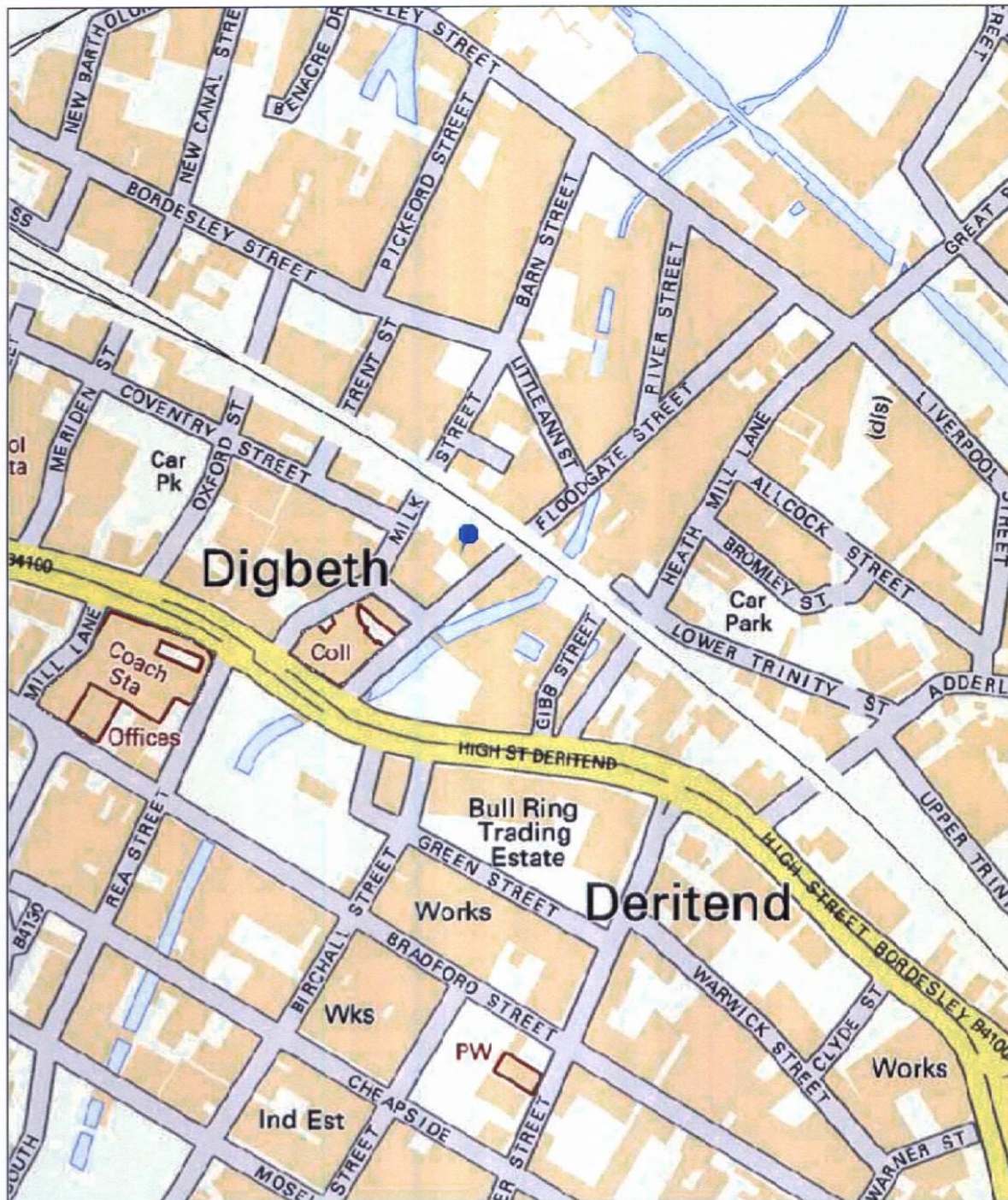
Persons under the age of 18 years - No person under the age of 18 years shall be permitted in any circumstances into these Licensed premises whilst they are being used for licensable activities

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Annex 4 – Plans

The plan of the premises with reference number **82371-3827/2** which is retained with the public register kept by Birmingham City Council and available free of charge for inspection by appointment only. Please ring the Licensing Section on 0121 303 9896 to book an appointment.

Appendix 4



Birmingham City Council

Map Created By:

Notes

Date of Map Creation: 09/11/2016

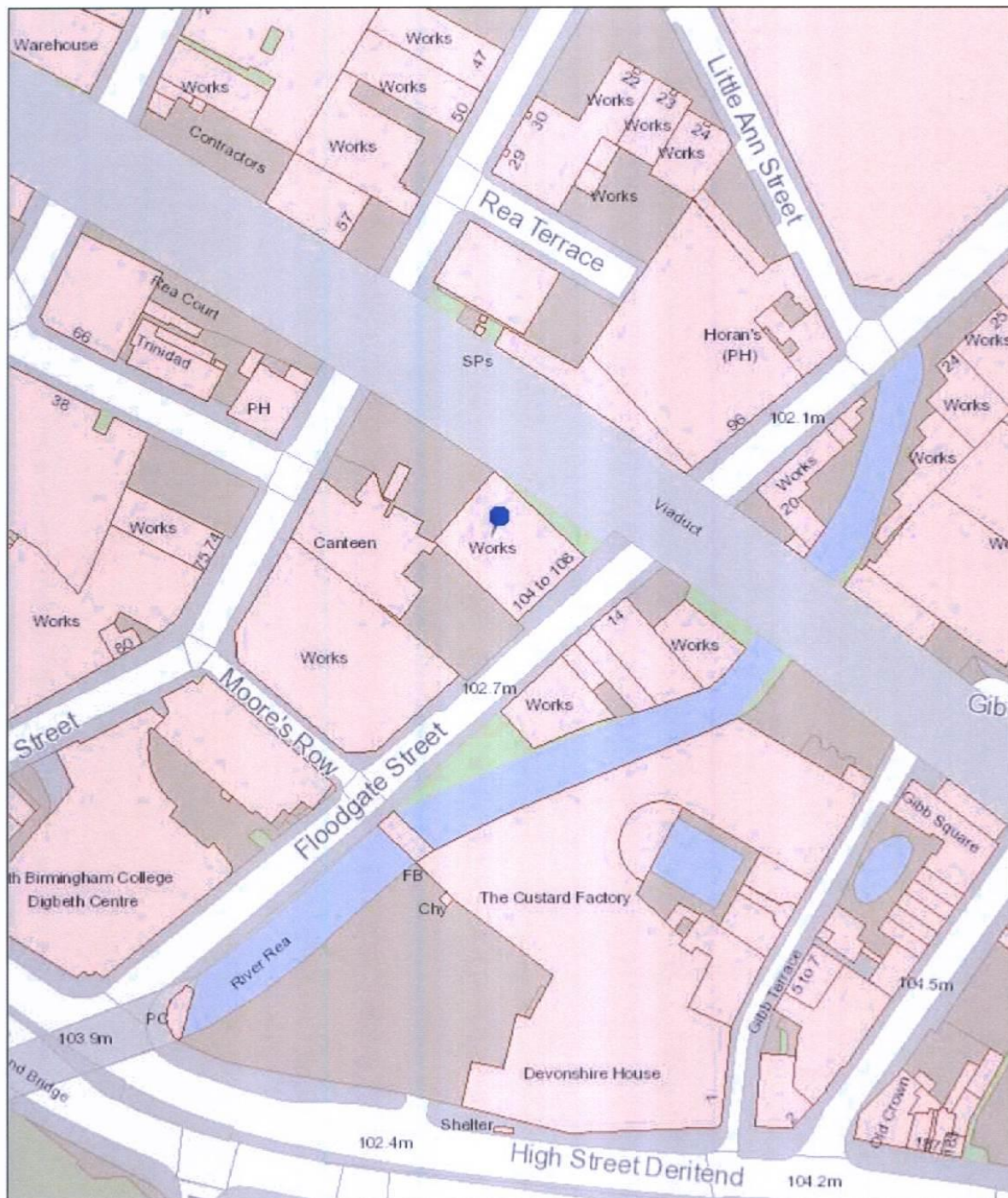


Scale:
1:4,000

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Birmingham City Council

Map Created By:

Notes

Date of Map Creation: 09/11/2016



Scale:
1:1,250

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