

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 B

TUESDAY, 23 JANUARY 2018 AT 10:00 HOURS
IN COMMITTEE ROOM 1, COUNCIL HOUSE, VICTORIA SQUARE,
BIRMINGHAM, B1 1BB

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

A G E N D A

1 **NOTICE OF RECORDING**

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

2 **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

3 - 22

3 **LICENSING ACT 2003 PREMISES LICENCE – REVIEW COSTCUTTER, 442 – 444 BIRCHFIELD ROAD, PERRY BARR, BIRMINGHAM, B20 3JG**

Report of the Acting Director of Regulation and Enforcement.
N.B. Application scheduled to be heard at 10:00am.

4 **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.

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4A **AGENDA ITEM 4A - OTHER URGENT BUSINESS - LICENSING ACT 2003 - TEMPORARY EVENT NOTICE - EAST AFRICAN RESTAURANT, 136-150 SOHO HILL, BIRMINGHAM, B19 1AF**

Scheduled to be heard at 1230 hours.

ADDITIONAL EVIDENCE - TEMPORARY EVENT NOTICE OBJECTION

Application scheduled for 1230 hours.

5 EXCLUSION OF THE PUBLIC

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

Minutes - Exempt Paragraphs 3 and 4

P R I V A T E A G E N D A

1 LICENSING ACT 2003 - PERSONAL LICENCE APPLICATION

Report of the Acting Director of Regulation and Enforcement.
N.B. Application scheduled to be heard at 1200 hours.

2 OTHER URGENT BUSINESS (EXEMPT INFORMATION)

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

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee B
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Tuesday 23rd January 2018
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	Costcutter, 442 – 444 Birchfield Road, Perry Barr, Birmingham, B20 3JG
Ward affected:	Lozells & East Handsworth
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 4 th December 2017 from the Chief Inspector of Weights and Measures in respect of Costcutter, 442 – 444 Birchfield Road, Perry Barr, Birmingham, B20 3JG.
A representation has been received from West Midlands Police, as a responsible authority.

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

5. Relevant background/chronology of key events:

The Chief Inspector of Weights and Measures applied on 4th December 2017 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for Costcutter, 442 – 444 Birchfield Road, Perry Barr, Birmingham, B20 3JG.

A representation has been received from West Midlands Police, as a responsible authority. See Appendix 1

The Review application is attached, see Appendix 2.

The Premises Licence is attached at Appendix 3.

Site location plans at Appendix 4.

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

The Licensing Authority 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 representation as detailed in Appendix 1

Review Application Form, Appendix 2

Copy of Premises Licence, Appendix 3

Site location plans, Appendix 4

7. Options available

Modify the conditions of Licence

Exclude a Licensable activity from the scope of the Licence

Remove the Designated Premises Supervisor

Suspend the Licence for a period not exceeding 3 months

Revoke the Licence

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.

Appendix 1

From: bw licensing
Sent: 05 December 2017 08:56
To: Licensing
Subject: Premises Licence representation - 442-444 Birchfield Road. B20 3JG

Good Morning Licensing,

West Midlands Police support the representation made by Birmingham Trading Standards regarding Costcutter 442-444 Birchfield Road. B20 3JG – premises licence number 3232. The representation is supported under the protection of children from harm, public safety and prevention of crime & disorder licensing objectives.

Mr Waheed Khan is both the DPS and Premises Licence Holder.

The sale of alcohol to children appears to be an on-going issue / problem at this premises as it has been noted that Trading Standards had previously visited in January 2017 after receiving intelligence that the premises was selling alcohol to minors. The premises was left a 'Traders Notice' at this visit. The sale of alcohol to children can only be monetary led and profit orientated with the possible consequences of such actions seemingly of no concern as long as money is 'going in the till.'

As alcohol was sold to a 14 year old child on 28th July 2017 – (6 months after Trading Standards initial visit) this would indicate that the Premises Licence Holder and DPS had totally disregarded the advice given by Trading Standards in January 17 and has no intention to comply with the licensing objectives or licensing legislation.

Although it was not the DPS and Premises Licence Holder who made the sale of alcohol it appears that the sale of alcohol to children was the norm at this premises with Trading Standards having received intelligence of such, prior to their initial visit in January 2017.

The DPS and Premises Licence Holder has stated that he had trained all his staff. This now would question the extent and content of the training.

The member of staff who sold the alcohol has stated in interview that he had thought it was a soft drink and only usually 'stacked the shelves.'

The item sold / purchased was a very large bottle of WKD valued at £2.99. This would have been an unusual size and surely expensive for a soft drink. The bottle would have also had warnings and aged restricted signage on the label.

The fact that the member of staff usually stacked the shelves would indicate that he almost certainly would have stacked WKD bottles with the other alcohol on sale in the premises.

If the member of staff had thought that he had sold a soft drink then the question has to be asked of why he originally denied the sale had taken place and was obstructive to officers when they entered the store after the sale.

He also admitted to officers that he had not asked for any form of ID. Surely, if as he stated in interview he thought he was selling a soft drink then he would have not felt that he should have needed to ask for ID. That fact that he never stated, in mitigation to officers at the premises, at the time that he thought he had sold a soft drink would also question his account in interview.

It is the belief of West Midlands Police that this account given in interview does not stand up to any sort of scrutiny.

It is West Midlands Police stance that the DPS and Premises Licence Holder has at the very best, failed in his responsibility to ensure his staff had been sufficiently trained & competent in the sale of alcohol on his behalf and at the very worst been totally complicit in allowing the sale of alcohol to children given the intelligence since January 17 and time scale of previous visits by Trading Standards to the premises.

Regards

Chris Jones 55410

Birmingham Central Licensing Team

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



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Appendix 2

Head of Licensing, 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 Neil Donovan (on behalf of Donna Bensley Chief Inspector of Weights & Measures)

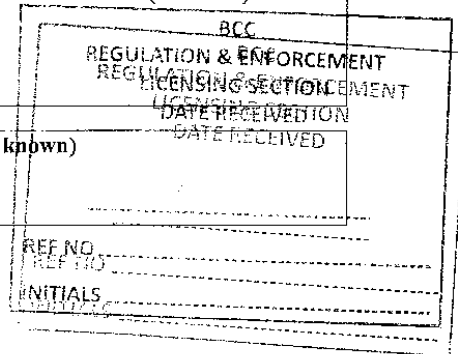
(Insert name of applicant)

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

Part 1 – Premises or club premises details **COSTCUTTER**

Postal address of premises or, if none, ordnance survey map reference or description	
Costcutter 442-444 Birchfield Road	
Post town Birmingham	Post code (if known) B20 3JG

Name of premises licence holder or club holding club premises certificate (if known) Mr Waheed Khan
Number of premises licence or club premises certificate (if known) 3232



Part 2 – Applicant details

I am

Please tick ✓ yes

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

☐

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

✓ yes

3) a member of the club to which this application relates

☐

Trading Standards Licensing review 8747432 Costcutter B20 3JG

Page 1

(please complete (A) below)

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

Please tick ✓ yes

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

Surname

First names

I am 18 years old or over

Please tick ✓ yes
☐

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

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Neil Donovan, Enforcement Officer for and on behalf of Donna Bensley Chief Inspector of Weights & Measures. Birmingham City Council Trading Standards PO Box 16586 Birmingham B33 3EH In all correspondence please quote our reference: 8747432
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 | ✓ |

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

In January 2017 Birmingham Trading Standards received intelligence from a member of the public that a shop known as Booze Stop/Costcutters, 442-444 Birchfield Road, Birmingham, B20 3JG was selling alcohol to persons under the age of 18; in this case the complainants' son who was 16.

It is an offence to sell cigarettes and alcohol to persons under 18 years of age.

Consequently an advisory visit was made to the shop on 11 January 2017 by Trading Standards Enforcement Officer Paul Ellson. On this visit Officer Ellson issued an advice notice to the trader numbered 12307. The notice stated amongst other things; *"This department has received information that alcohol was sold to a person under 18yrs old. This must cease. Test purchase may be made to ensure compliance"*. The trader signed for this notice and was given a copy.

Subsequently on 28 July 2017 Birmingham Trading Standards Service undertook a test purchase exercise with a 14 year old female volunteer.

At approximately 12.30 pm. the volunteer went into Costcutter. Trading Standards Officer Martin Williams followed a few paces behind in order to witness what occurred.

The volunteer went to the rear of the shop and picked up a 700ml bottle of 4% alcohol WKD Blue vodka drink and took it to the counter. Here she presented it to middle aged man who was behind the counter. The man did not ask her age or ask for any identification but just said; *"£2.99"*.

The volunteer paid her then left the premises with the bottle of alcohol.

A few minutes later Officer Williams returned to the shop with local police officer Chris Jones and spoke to the same man behind the counter, he gave his name as Zafar Iqbal. Despite at first denying it he then admitted he had sold the alcohol to the young volunteer and had not asked her age or for any ID.

Officer Williams explained to him that the sale could constitute an offence under the Licensing Act 2003 and that the facts would be reported.

Zafar Iqbal was issued with a trader's notice to this effect which he duly signed.

On 7 September 2017 Officer Donovan formally interviewed Waheed Khan who is both the Premises Licence Holder and Designated Premises Supervisor. Following that he also interviewed the fellow partner in the business Nazabit Khan about the events of 28 July 2017. The interviews were conducted under caution in accordance with The Police and Criminal Evidence Act 1984. Both men were interviewed separately.

In the interviews both men advised that Zafar Iqbal had recently left the business due to the stress of this and the fact that he did not feel he could do the job. He had apparently been trained and training records were shown to Officer Donovan.

On 21 September 2017 Officer Donovan formally interviewed the seller, Zafar Iqbal, about the events of 28 July 2017. The interview was conducted under caution in accordance with The Police and Criminal Evidence Act 1984.

In the interview Mr Iqbal confirmed he had recently left the business due to the stress of the sale and the fact that he did not feel he could do the job, he also confirmed that he had received relevant training. Mr Iqbal went on to say that he genuinely thought the WKD was a soft drink and that his normal role in the shop was to stack shelves but on this occasion a colleague had gone out to get some lunch and he was covering for him.

This does appear to show that he should not have been left in charge in the shop on his own with little or no experience.

It is felt that the Premise Licence Holder has failed in his responsibility to ensure that staff left on their own are confident in the role they undertake. Clearly Mr Iqbal felt that he was unable to do the job and did not recognise an alcohol product.

We therefore request a review to consider all options open to Committee. If revocation is not deemed appropriate we would recommend additional conditions especially requiring a Personal Holder is on the premises at all times.

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

The premise has had previous issues in relation to complaints relating to alcohol.
The previous history of shop is as follows;

Previous to this in January 2014 an anonymous complaint was made to Trading Standards that the shop was selling counterfeit cigarettes and alcohol. On the 13 February 2014 a visit and inspection was conducted and 12 bottles of 1 litre Glens, 11 bottles of 70 cl Glens, 1 bottle of 35cl Glens and 11 bottles of 100cl Bacardi was seized and detained. On the 12th August 2014 Mr Mohammed signed a caution and was given a pack on preventing illegal sales.

The current DPS/PLH only came into effect from the 12 July 2017, however the above does show the history of the premises.

In view of this sale and previous history it is considered appropriate to seek a review of the licence with a recommendation that it be revoked. Selling alcohol to children is a very serious matter and is in breach of the licensing objectives. It is a criminal offence. Equally being found in possession of illicit goods is also a criminal matter and dealing in such goods brings crime into neighbourhoods and could also have an impact on the purchasers' health as dealing in illicit goods, without knowing the provenance could result in unsafe products being supplied.

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

Please tick ✓ yes
No

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

N/A

Please tick ✓ yes

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature

.....

Date

..... 28/11/2017

Capacity

..... ENFORCEMENT OFFICER

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

Notes for Guidance

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

Appendix 3

BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003

PREMISES LICENCE

Premises Licence Number:

3232 / 3

Part 1 - Premises details:

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

Where the licence is time limited the dates N/A

Licensable activities authorised by the licence M2 Sale of alcohol by retail (off the premises)
--

The times the licence authorises the carrying out of licensable activities			
Monday - Sunday	00:00	-	23:59 M2

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

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

BIRMINGHAM CITY COUNCIL

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Mr Waheed Khan	
Post town:	Post Code:
Telephone Number:	
Email	

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

Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Mr Waheed Khan	
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 12/07/2017

Shaid Yasser
Senior Licensing Officer
For Director of Regulation and Enforcement

BIRMINGHAM CITY COUNCIL

Annex 1 – Mandatory Conditions

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

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

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

(a) a holographic mark, or (b) an ultraviolet feature.

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

(2) In this condition:— (a) “permitted price” is the price found by applying the formula $P = D + (D \times V)$, where— (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol; (b) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence— (i) the holder of the premises licence, (ii) the designated premises supervisor (if any) in respect of such a licence, or (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence; (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

(3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.

(4) Where the permitted price on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

BIRMINGHAM CITY COUNCIL

Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

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

Conditions as stated below under the appropriate licensing objective.

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

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

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

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

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

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

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

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

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

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

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

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

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Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

N/A

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

N/A

3c) Committee conditions to promote public safety

N/A

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

N/A

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

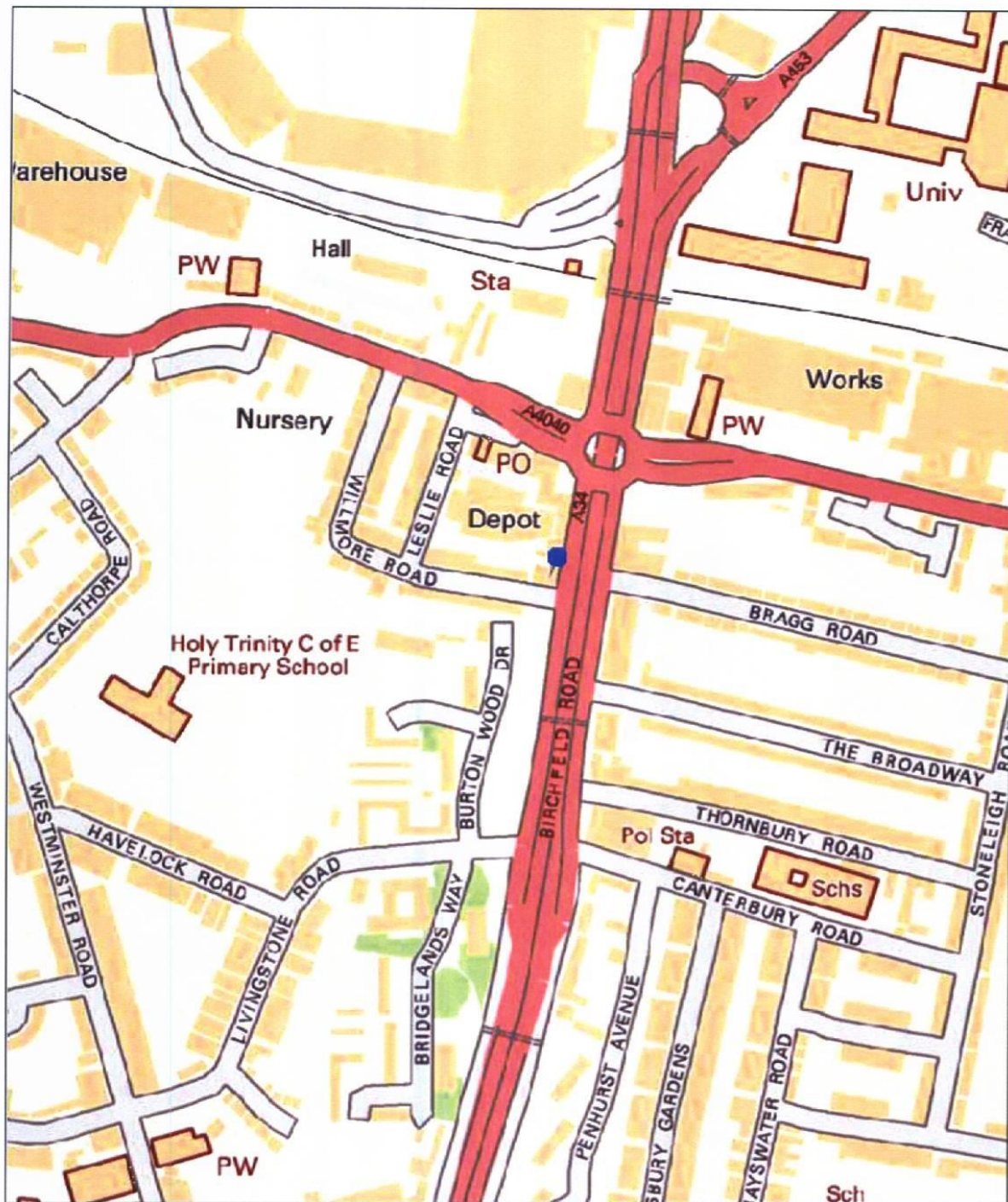
N/A

BIRMINGHAM CITY COUNCIL

Annex 4 – Plans

The plan of the premises with reference number **101912-3232/3** which is retained with the public register kept by Birmingham City Council and available free of charge for inspection by appointment only. Please call the Licensing Section on 0121 303 9896 to book an appointment.

Appendix 4



Birmingham City Council Map Created By:

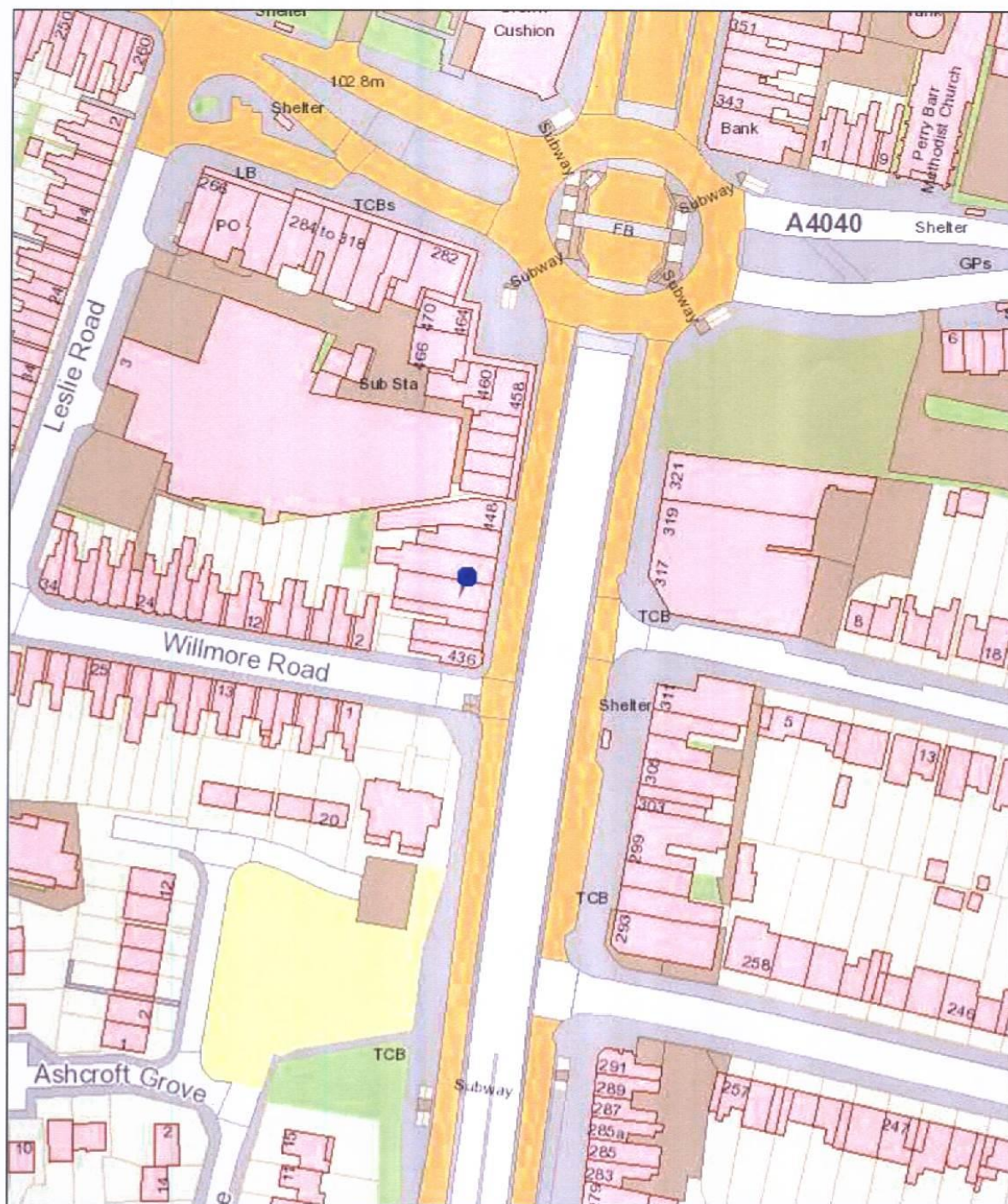
Notes

Date of Map Creation: 02/01/2018



Scale:
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Birmingham City Council Map Created By:

Date of Map Creation: 02/01/2018

Notes



Scale:
1:1,250

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Report to:	Licensing Sub Committee B
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Tuesday 23rd January 2018
Subject:	Licensing Act 2003 Temporary Event Notice
Premises:	East African Restaurant, 136 -150 Soho Hill, Birmingham, B19 1AF
Ward affected:	Lozells and East Handsworth
Contact Officer:	David Kennedy, Principal Licensing Officer 0121 303 9896 licensing@birmingham.gov.uk

1. Purpose of report:
To consider the objections to the Temporary Event Notice (TEN), which seeks to permit the Sale of Alcohol (for consumption on the premises only), and the provision of Regulated Entertainment on the 15 th April 2018 to operate from 00:00midnight – 06:00am.

2. Recommendation:
To consider the objection notice's made by Environmental Health and West Midlands Police

3. Brief Summary of Report:
A Temporary Event Notice was received on 12 th January 2018 in respect of the East African Restaurant, 136 – 150 Soho Hill, Birmingham, B19 1AF.
An objection notice has been received from Environmental Health and West Midlands Police.

4. Compliance Issues:
When carrying out its licensing functions, a licensing authority must have regard to the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.
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>Mr Wayne Bell submitted on 12th January 2018 a Temporary Event Notice in respect of East African Restaurant, 136 – 150 Soho Hill, Birmingham, B19 1AF.</p> <p>The Temporary Event Notice is attached, see Appendix 1.</p> <p>An objection notice has been received from Environmental Health, see Appendix 2.</p> <p>An objection notice has been received from West Midlands Police, see Appendix 3.</p> <p>The current premises licence is attached at Appendix 4.</p> <p>Site location plans are attached, see Appendix 5.</p> <p>Under the licensing system of TENs, no actual permission is required to carry out a licensable activity on a temporary basis. An applicant must merely give notice of his intentions to operate a licensable activity to the licensing authority.</p> <p>However, the police or local authority exercising environmental health functions may intervene to prevent such an event taking place or agree a modification of the proposed arrangements, and their intervention may in some cases result in the licensing authority imposing conditions on a TEN.</p> <p>Where a TEN is submitted, the licensing authority must consider the objection(s) at a hearing before a counter notice, or a notice including a statement of conditions can be issued.</p> <p>When giving a TEN, consideration should be given to the following four licensing objectives:</p> <ol style="list-style-type: none"> 1. The prevention of crime and disorder 2. public safety 3. The prevention of public nuisance; and 4. The protection of children from harm <p>If the TEN is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN if it considers that this is appropriate for the promotion of the licensing objectives.</p>

<p>6. List of background documents:</p> <p>Temporary Event Notice, attached at Appendix 1.</p> <p>Objection Notice from Environmental Health, attached at Appendix 2.</p> <p>Objection Notice from West Midlands Police, attached at Appendix 3.</p> <p>Premises Licence, attached at Appendix 4.</p> <p>Site location plans, Appendix 5</p>

<p>7. Options available</p> <p>Allow the proposed temporary licensable activities as stated in the TEN</p> <p>Impose conditions on a TEN to promote the licensing objectives</p> <p>Refuse the proposed temporary licensable activities as stated in the TEN</p>

Appendix 1

Temporary Event Notice

Before completing this notice, please read the guidance notes at the end of the notice. If you are completing this notice by hand, please write legibly in block capitals. In all cases, ensure that your answers are inside the boxes and written in black ink or typed. Use additional sheets if necessary. You should keep a copy of the completed notice for your records. You must send at least one copy of this notice to the licensing authority and additional copies must be sent to the chief officer of police and the local authority exercising environmental health functions for the area in which the premises are situated. The licensing authority will give to you written acknowledgement of the receipt of the notice.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

1. The personal details of premises user (Please read note 1)			
1. Your name			
Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname	BELL		
Forenames	WAYNE WINSTON		
2. Previous names (Please enter details of any previous names or maiden names, if applicable. Please continue on a separate sheet if necessary)			
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)		
Surname			
Forenames			
3. Your date of birth		Day	Month Year
4. Your place of birth			
5. National Insurance Number			
6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box below)			
Post town		Postcode	
7. Other contact details			
Telephone numbers			
Daytime			
Evening (optional)			
Mobile (optional)			
Fax number (optional)			
E-Mail address (if available)			
8. Alternative address for correspondence (If you complete the details below, we will use this address to correspond with you)			

Post town		Postcode
9. Alternative contact details (if applicable)		
Telephone numbers:		
Daytime		
Evening (optional)		
Mobile (optional)		
Fax number (optional)		
E-Mail address (if available)		

2. The premises	
Please give the address of the premises where you intend to carry on the licensable activities or, if it has no address, give a detailed description (including the Ordnance Survey references) (Please read note 2)	
East Africa Restaurant 136-150 Soho Hill Birmingham B19 1AF	
Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)? If so, please enter the licence or certificate number below.	
Premises licence number	
Club premises certificate number	
If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)	
Please describe the nature of the premises below. (Please read note 4)	
Restaurant	
Please describe the nature of the event below. (Please read note 5)	
Private Birthday party	

3. The licensable activities

Please state the licensable activities that you intend to carry on at the premises (please tick all licensable activities you intend to carry on). (Please read note 6)

The sale by retail of alcohol	<input checked="" type="checkbox"/>
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club	<input type="checkbox"/> N/A
The provision of regulated entertainment (Please read note 7) MUSIC	<input checked="" type="checkbox"/> N/A
The provision of late night refreshment	<input type="checkbox"/>
Are you giving a late temporary event notice? (Please read note 8)	<input type="checkbox"/>
Please state the dates on which you intend to use these premises for licensable activities. (Please read note 9)	

15/4/2018

Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 10)

HOURS 00:00 AM - 06:00

Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 11)	150
If the licensable activities will include the sale or supply of alcohol, please state whether these will be for consumption on or off the premises, or both (please tick as appropriate). (Please read note 12)	On the premises only <input checked="" type="checkbox"/>
	Off the premises only <input type="checkbox"/>
	Both <input type="checkbox"/>

Please state if the licensable activities will include the provision of relevant entertainment. If so, please state the times during the event period that you propose to provide relevant entertainment (including, but not limited to lap dancing and pole dancing). (Please see note 13)

4. Personal licence holders (Please read note 14)		
Do you currently hold a valid personal licence? (Please tick)	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If "Yes" please provide the details of your personal licence below.		
Issuing licensing authority	BIRMINGHAM CITY COUNCIL	
Licence number	264211	
Date of issue	29/3/2006	
Any further relevant details	16/5/2016	


5. Previous temporary event notices you have given (Please read note 15 and tick the boxes that apply to you)		
Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the number of temporary event notices (including the number of late temporary event notices, if any) you have given for events in that same calendar year		
Have you already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>


6. Associates and business colleagues (Please read note 16 and tick the boxes that apply to you)		
Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your associate(s) have given for events in the same calendar year.		
Has any associate of yours already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your business colleague(s) have given for events in the same calendar year.		

Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
--	---------------------------------	--------------------------------

7. Checklist (Please read note 17)	
I have: (Please tick the appropriate boxes, where applicable)	
Sent at least one copy of this notice to the licensing authority for the area in which the premises are situated	<input checked="" type="checkbox"/>
Sent a copy of this notice to the chief officer of police for the area in which the premises are situated	<input checked="" type="checkbox"/>
Sent a copy of this notice to the local authority exercising environmental health functions for the area in which the premises are situated	<input checked="" type="checkbox"/>
If the premises are situated in one or more licensing authority areas, sent at least one copy of this notice to each additional licensing authority	<input type="checkbox"/>
If the premises are situated in one or more police areas, sent a copy of this notice to each additional chief officer of police	<input type="checkbox"/>
If the premises are situated in one or more local authority areas, sent a copy of this notice to each additional local authority exercising environmental health functions	<input type="checkbox"/>
Made or enclosed payment of the fee for the application	<input checked="" type="checkbox"/>
Signed the declaration in Section 9 below	<input checked="" type="checkbox"/>

8. Condition (Please read note 18)
It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the sale or supply of alcohol that all such supplies are made by or under the authority of the premises user.

9. Declarations (Please read note 19)	
The information contained in this form is correct to the best of my knowledge and belief.	
I understand that it is an offence: (i) to knowingly or recklessly make a false statement in or in connection with this temporary event notice and that a person is liable on summary conviction for such an offence to a fine of any amount; and (ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on summary conviction for any such offence to a fine of any amount, or to imprisonment for a term not exceeding six months, or to both.	
Signature	
Date	12/01/18
Name of Person signing	Wayne Reel

10. Acknowledgement (Please read note 20)	
I acknowledge receipt of this temporary event notice.	
Signature	 On behalf of the licensing authority
Date	15/01/18
Name of Officer signing	Norway Gayle

Appendix 2

From: Martin Key
Sent: 16 January 2018 11:03
To: Licensing; wayneakl@ymail.com
Cc: bw_licensing@west-midlands.pnn.police.uk
Subject: RE: Online TEN - East African Restaurant Ref: 569530

Importance: High

Hi

As representative of Environmental Health I hereby object to the TEN for East African Restaurant reference 569530 submitted by Wayne Bell for 15 April 2018 between 00.00 and 06.00 on grounds of likely public nuisance. This premises has recently been granted a licence following representation from both the police and environmental health subject to a number of conditions including no regulated entertainment and an agreement not to use the premises beyond 23.30. The premises has been subject to noise complaints in 2017 both about entertainment noise breakout and noise from patrons outside the premises related to activities similar to those proposed in the TEN. In respect of the proposed use under the TEN I am concerned that the premises are currently not suitable for the type of use proposed without further work. I am concerned that the grant of the TEN would potentially result in noise nuisance to neighbouring properties due to noise breakout from the building arising from performance of music and the use of the external areas in conjunction with the licensed activity. This concern is based on the previous site history of noise complaints, the type of event proposed, the absence of any effective operating conditions, the building design and structure, the existing noise environment and the proximity of noise sensitive receptors. I have informed the applicant of my intention to object and the reasons and have copied him into this objection.

Best Regards

Martin Key
Environmental Protection Officer

Environmental Health | Regulation & Enforcement Division
☎: +44 (0) 121 303 2034 | ✉: martin.key@birmingham.gov.uk
✉: Environmental Health, Manor House, PO Box 16977, Birmingham, B2 2AE
(Office Site: Environmental Protection, 1st Floor, 40 Moat Lane, Birmingham, B5 5BD)
🌐: www.birmingham.gov.uk/eh | Facebook: ehbmham | Twitter: @ehbmham

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

Appendix 3

From: bw licensing <bw_licensing@west-midlands.pnn.police.uk>
Sent: 16 January 2018 14:08
To: Licensing Online
Subject: RE: Online TEN - East African Restaurant Ref: 569530

Dear Licensing,

In relation to the above TEN for East Africa Restaurant, 136-150 Soho Hill, Birmingham... West Midlands Police object to the application on the grounds that the prevention of crime and disorder and public nuisance will not be promoted.

The premises recently applied for a licence, which West Midlands Police initially objected to. The concerns were that the requested hours would not prevent crime and disorder. The licensable hours were reduced on the premises licence with the committee taking this into account.

Kind Regards
Vicki

PC 0027 Vicki Demuth
BW Licensing Officer
CSE Ambassador
West Midlands Police
Lloyd House, Birmingham
Mobile – 07391 018843
Phone – 0121 626 6099
Internal – 801 1670
Twitter - @brumlicensing
Email - v.demuth@west-midlands.pnn.police.uk



BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003PREMISES LICENCE

Premises Licence Number:

4821 / 1

Part 1 - Premises details:**Postal address of premises, or if none, ordnance survey map reference or description**

Selam East African Restaurant
Unit 3
136 - 150 Soho Hill

Post town:

Birmingham

Post Code:

B19 1AF

Telephone Number:

Not Specified

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

L Late Night Refreshment
M3 Sale of Alcohol by retail (On the premises)

The times the licence authorises the carrying out of licensable activities

Monday - Sunday	12:00	-	23:30	M1
	23:00	-	23:30	L

The opening hours of the premises

Monday - Sunday	12:00	-	23:30
-----------------	-------	---	-------

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

On Supplies Only

BIRMINGHAM CITY COUNCIL

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Mr Teklebrhan Hadgu	
Post town:	Post Code:
Telephone Number: Not Specified	
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 Mr Teklebrhan Hadgu	
Post town:	Post Code:
Telephone Number: N/A	

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol	
Licence Number 10553	Issuing Authority Birmingham City Council

Dated 22/12/2017

S.A. Yasser.

SHAID YASSER
Senior Licensing Officer
For Director of Regulation and Enforcement

BIRMINGHAM CITY COUNCIL

Annex 1 – Mandatory Conditions

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

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

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

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

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

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

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

BIRMINGHAM CITY COUNCIL

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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Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

All alcohol and tobacco products sold at the premises shall have the relevant UK duty paid.

1. Foreign tobacco, which does not comply with relevant UK legislation, shall not be stored and/or sold at the premise.
 2. Invoices, or copies of invoices, for all alcohol and tobacco purchases for the sale at the premises, will be retained and kept at the premises, and made available to officers from Trading Standards, the Police or HMRC, upon request.
 3. A stock control system will be maintained, to enable the licensee and designated premises supervisor to quickly identify where and when alcoholic and tobacco product have been purchased.
 4. A ultra-violet light will be available at the premises and will be used for the purpose of checking the UK Duty Stamps on spirits as soon as practicable after purchase.
 5. If any spirits purchased for or on behalf of the business have UK Duty Stamps that do not fluoresce under ultra-violet light, or are otherwise suspicious, the licensee and/or designated premises supervisor shall notify the supplier to Birmingham City Council, Trading Standards and HMRC as soon as possible.
 6. If any tobacco products purchased for or on behalf of the business does not have UK Duty Paid fiscal mark or are otherwise suspicious, the licensee and/or designated premises supervisor shall notify the supplier to Birmingham City Council, Trading Standards and HMRC as soon as possible.
- Protecting Children from Harm

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

At any time when there is no Personal License holder on the premises there must be at least one member of staff on duty inside the premise who has been authorised by the DPS. Any such person should have seen, read and be fully aware of the conditions of the premise licence and take all steps to ensure that such conditions are adhered to whilst they have responsibility for the premise.

A record should be kept detailing, the name and address relative to the person left in charge of the premise and the times and dates when the authority to cover exists, in writing. These should be individual entries covering short periods of time only and should not exceed more than a three week period.12. The authorised person should also sign on each occasion that he/she has physically seen inspected and is fully aware of all the conditions attached to the premise licence. The DPS should sign to acknowledge that they agree to the authorised person being in charge of the premise for any times specified. The records of these matters should be kept fully updated at all times.

All Records shall be retained at the premises for a period of no less than 12 months and made available to responsible authorities on request.

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

Adequate bins are available for customers to dispose of litter.

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

No enforceable conditions identified from operating schedule.

BIRMINGHAM CITY COUNCIL

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

Challenge 25 posters will be displayed at the premises to reinforce this policy. Posters will be placed at; each till, each area alcohol is stocked and at the point of entry into the store. The posters will be displayed prominently and in sight of customers and staff.

A Refusals Register is to be used to record all incidents when a sale is refused. The register is to be kept in the store at all times unless it is requested by authorised officers of responsible authorities. The Refusal/Challenge Register is to be checked and signed off by the Designated Premises Supervisor every two weeks.

Training records must be made available to authorised officers of responsible authorities on request. Records shall be retained at the premises at all times.

BIRMINGHAM CITY COUNCIL

Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

Conditions as imposed by Licensing Sub Committee B on Tuesday 19th December 2017, following the advance agreement of West Midlands Police and Environmental Health.

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

The premises shall install and maintain a comprehensive CCTV system. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.

A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) any faults in the CCTV system, searching equipment or scanning equipment
- (f) any refusal of the sale of alcohol
- (g) any visit by a relevant authority or emergency service

The premises licence holder / DPS shall ensure that all staff involved in the sale of alcohol receive training of their responsibilities under the Licensing Act 2003, to be refreshed at least every 6 months.

3c) Committee conditions to promote public safety

N/A

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

Prominent signs will be displayed requesting customers to have regard for local residents when leaving the premises.

To avoid nuisance being caused to neighbours the DPS, or other nominated person/staff, shall monitor the external areas of the Premises after 23:00 hours, including the smoking area and frontage onto Soho Hill. If necessary, they shall remind customers to be respectful of neighbours and where necessary they shall limit the number of customers going outside to use the smoking area and take appropriate steps to avoid customers who use the car park area or frontage of the premises causing a nuisance.

The DPS shall, within 3 months of the date of issue of this licence, submit in writing a noise management plan to Environmental Protection Unit of Birmingham City Council. The noise management plan shall outline the measures to be adopted to reduce the noise impact of activities associated with the premises including music, deliveries, recycling and refuse collections, smoking areas, customers and car parks. The noise management plan shall be updated regularly and all staff shall be adequately trained in their role in implementing the plan.

No waste or recyclable material, including bottles, shall be moved, removed or placed in areas outside the premises building between the hours of 23.00 and 08.00.

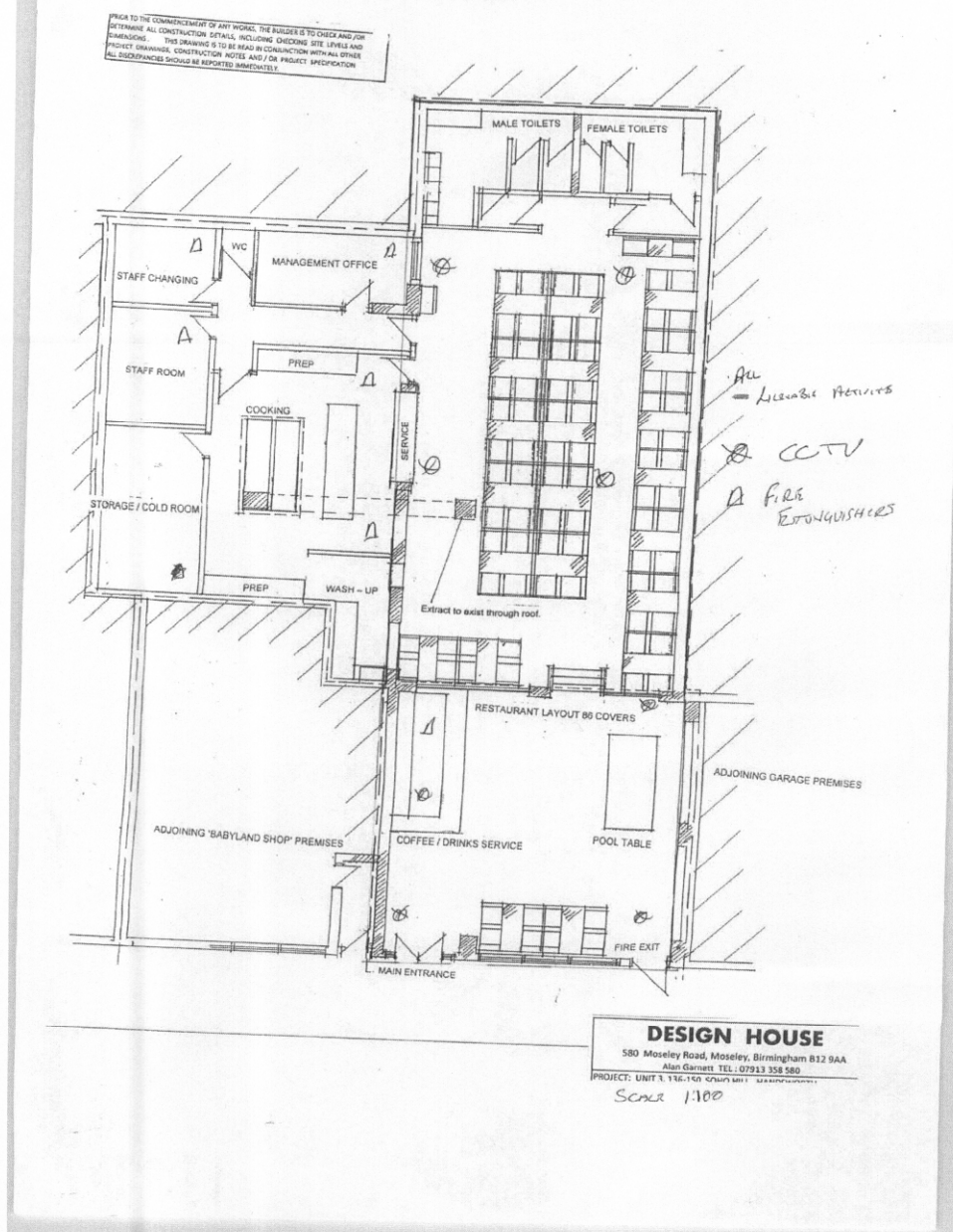
BIRMINGHAM CITY COUNCIL

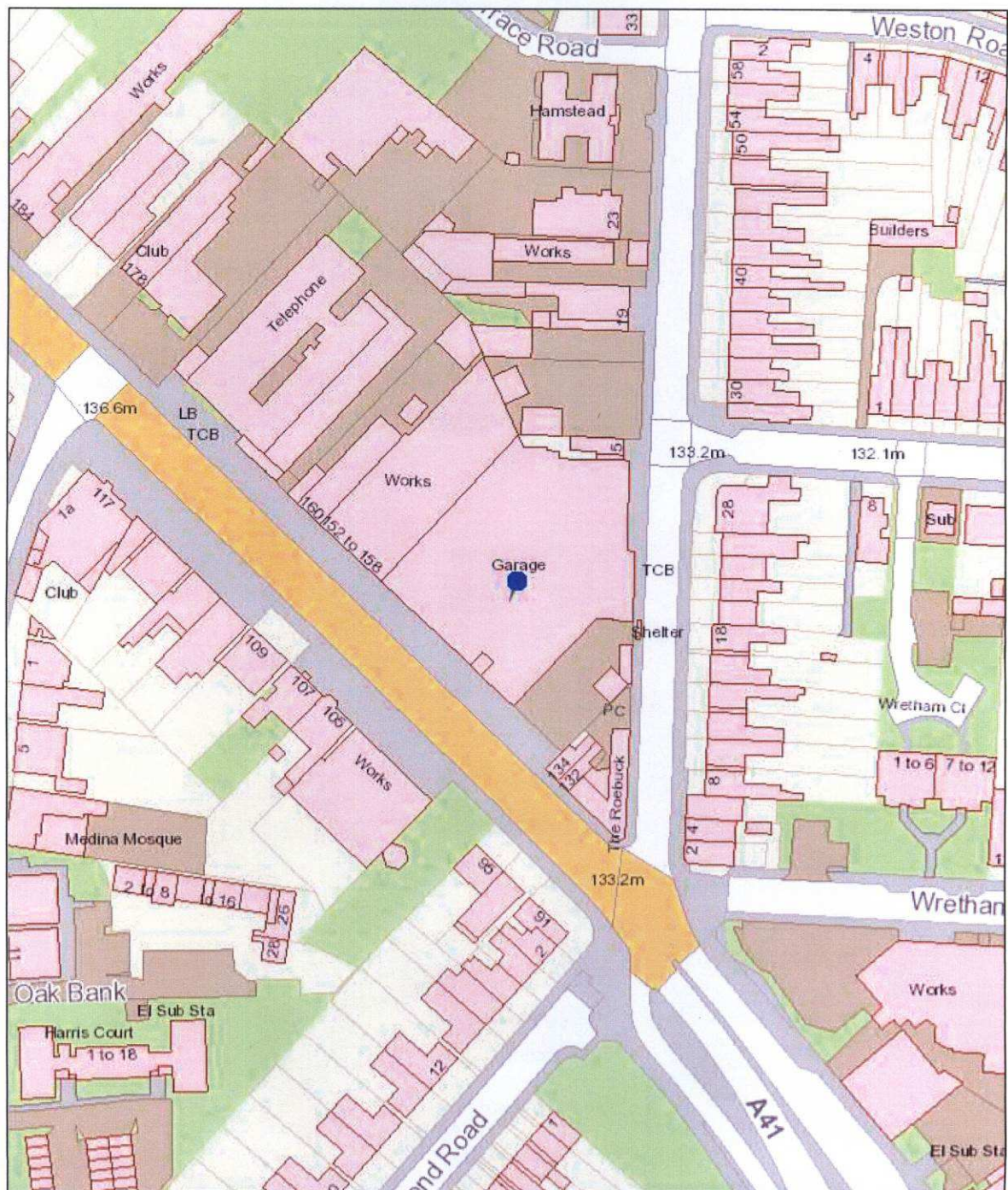
3e) Committee conditions to promote the protection of children from harm

A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

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Annex 4 – Plans





Birmingham City Council

Map Created By:

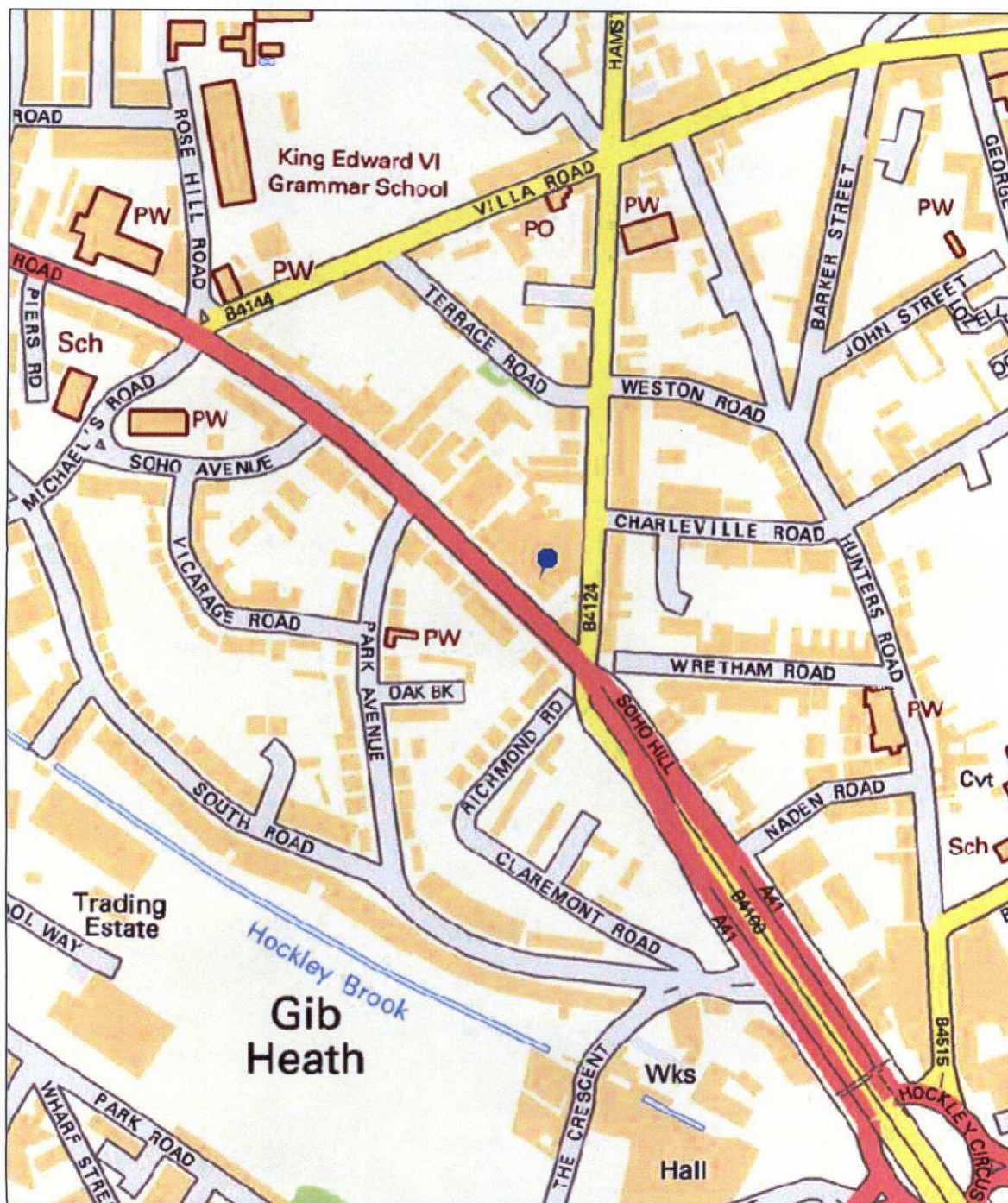
Date of Map Creation: 16/01/2018

Notes

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Scale:
1:1,250



Birmingham City Council

Map Created By:

Notes

Date of Map Creation: 16/01/2018



Scale:
1:4,000

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SUPPLEMENTARY PAPERS 1

BIRMINGHAM CITY COUNCIL

LICENSING

SUB-COMMITTEE B

23 JANUARY 2017

I attach the following report which it is proposed should be considered at the above meeting as urgent business. In order to comply with the requirements of the Local Government Act 1972, this late report can only be considered under:-

Other Urgent Business - which requires -

- (i) The Chairperson of the meeting formally to express the opinion that the item is a matter of urgency;
- (ii) the special circumstances justifying urgency to be specified and formally recorded in the Minutes.

AGENDA No 4 – OTHER URGENT BUSINESS

Licensing Act 2003 - Temporary Event Notice – East African Restaurant, 136-150 Soho Hill, Birmingham, B19 1AF

Scheduled to be heard at 1230 hours.

Katy Poole
Democratic Services
Tel: 0121-303 1555
E-mail: katy.poole@birmingham.gov.uk



Evidence for the
Temporary Event Notice objection
regarding
East Africa Restaurant,
136-150 Soho Hill,
Birmingham, B19 1AF

RESTRICTED DOCUMENT



CONTENTS

Police Incidents since premises licence application was made	1
Planning Application & Recommendation	2-8
Map showing location of premises	9
WMP objection to premises licence application	10-11
Email from local resident	12

POLICE INCIDENTS RECORDED SINCE LICENCE APPLICATION MADE ON 30TH OCTOBER 2017

LOG NUMBER	DATE	TIME	INCIDENT DETAILS	OUTCOME
LOG 504, 509, 520 & 522	05/11/2017	04:55	DISORDER AT NIGHTCLUB. 20 PEOPLE FIGHTING... THROWING STONES AND BOTTLES. *4 SEPARATE CALLS WERE MADE REGARDING THIS INCIDENT *	POLICE ATTEND. NO COMPLAINTS MADE AT SCENE, PEOPLE DISPERSED. LICENSING CONCERNS RAISED AS PREMISES WAS CARRYING OUT UNLICENSABLE ACTIVITY.
LOG 1086	17/11/2017	04:00	MALE REPORTING HE WAS ASSAULTED BY A MALE. WHO PUNCHED IP IN HIS MOUTH IP SUSTAINS INJURIES SPLIT LIP AND TOOTH SHAKING. IP UNSURE WHY OFFENDER PUNCHED HIM. INCIDENT HAPPENED OUTSIDE SELAM EAST AFRICA RESTAURANT AT 0400HRS ON 17/11/17.	CRIMED AS SECTION 20 MINOR WOUNDING.
LOG 1417	06/12/2017	15:21	DISPUTE OVER TENANCY. OWNER HAS HAD VERBAL DISAGREEMENT WITH CALLER. OWNER ATTEMPTED TO HIT CALLER TOOK PIECE OF WOOD TO HIT CALLER IN FACE.	CIVIL DISPUTE - NO FURTHER ACTION WAS TAKEN.
LOG 950	28/12/2017	12:53	CALLER IS REPORTING THAT A RESTAURANT CALLED SALEM IS SERVING UNDERAGE CUSTOMERS WITH ALCOHOL AND THEY HAVE A SHISHA LOUNGE WITH NO VENTILATION- THEY HAVE ALSO BEEN ORDERED TO CLOSE THE SHUTTERS AT 2300HRS BUT THEY ARE LETTING PEOPLE IN.	SIGNPOSTED FOR INVESTIGATION.

Delegated Date: 08/05/2017 Application Number: 2017/02551/PA
Accepted: 30/03/2017 Application Type: Full Planning
Target Date: 25/05/2017
Ward: Lozells and East Handsworth

136-150 Soho Hill, Unit 3, Handsworth, Birmingham, B19 1AF

Part change of use of car sales showroom (sui generis) to form restaurant (Class A3) and associated retrospective alterations to shopfront and roller shutter and installation of kitchen extraction equipment.

Applicant: Mr Tesfay Esayas Misgina
136-150 Soho Hill, Unit 3, Handsworth, Birmingham, B19 1AF
Agent: Mr Alan Garnett
Design House, 580 Moseley Road, Moseley, Birmingham, B12 9AA

Recommendation

Approve Subject To Conditions

1. Proposal

- 1.1. This application seeks a change of use to form a restaurant in Unit 3. The planning history of this site is complex and the existing lawful use of the premises has been disputed. The applicant describes it as having been a coffee shop (A1) and also a B8 use (storage and distribution), but has since agreed with my interpretation of the planning history explained further below.
- 1.2. The wider premises were historically used as a car showroom up until around 2004 when the premises were then changed to a furniture showroom use. An enforcement notice was served in respect of this use under ENF/1017/04/C which required the cessation of the use of the premises for retail purposes. The Notice was served on 21st December 2006 taking effect on 22nd January 2007. An enforcement notice appeal was lodged but returned invalid by PINS as the relevant fee was not paid. The appeal did not proceed and the notice remains on the register.
- 1.3. To date, the enforcement notice has not been enforced. The enforcement file indicates that on the basis of the retail use being reduced to 40% of the floorspace it was decided to not proceed with enforcing the notice. Nonetheless, there is no record of a planning application to regularise the unlawful use. The lawful use is therefore considered to be the car showroom use that proceeded this.
- 1.4. At some point, the building have been sub-divided into smaller units. Unit 1 currently comprises a furniture sales business trading as H.I Furniture factory. Unit 2 is a vacant shop which has been sub-divided, unit 3a is a shop selling baby related products. Unit 4 is the yard area to the side of the premises used for fitting tyres and associated storage. A car wash is also advertised as operating to the rear where units 5-7 are situated. The application premises are currently vacant with a shopfront and a roller shutter entrance.

- 1.5. The submitted plans show the installed shopfront and roller shutters to the frontage. Internally the restaurant would be laid out to provide a total of 86 covers in a large dining area to the rear. The frontage of the restaurant would be a lobby area with a drinks service counter and a pool table. The building would also include a kitchen, storage/cold room, staff room, staff changing, management office and toilets. An external extraction system is proposed to be installed.
- 1.6. I therefore consider that a more accurate description would be the part change of use of car showroom to restaurant with associated alterations to the shopfront and roller shutter and installation of kitchen extraction equipment, and have assessed the application on this basis.
- 1.7. The submitted supporting statement sets out that the premises would propose to open to customers between the hours of 07:00-23:00 hours Mondays – Sundays, including Bank Holidays. The development would propose to employ 8 staff.
2. Site & Surroundings
 - 2.1. The site is located within the Soho Road Neighbourhood Centre boundary as identified in the Shopping and Local Centres SPD, but is outside of the Primary Shopping Area. They are located within the Lozells and Soho Hill Conservation Area.
 - 2.2. The premises comprise commercial premises that previously formed part of a car showroom that was later converted into a furniture showroom and then sub-divided into smaller retail units. The application premises are currently vacant.
 - 2.3. The surrounding area includes a mix of uses that include shops, services, offices, education and residential uses. Soho House is situated approximately 200 metres to the west in Soho Avenue.
3. Planning History
 - 3.1. 10/05/2007 – 2007/01029/PA – Change of use from furniture showroom to restaurant – Refused. Although the application address relates to 134a-150 Soho Hill, the application red line plan relates to only part of the premises shown as unit 1 and part of unit 2 on the current application plans. The reasons for refusal were that the proposed development was out of centre for which no evidence had been provided to demonstrate that the development could not be located within Soho Road centre, and thereby fails to encourage linked trips and/or safeguard the retail vitality and viability of the existing local centre, contrary to retail policies in the UDP and PPS6, and that insufficient information to demonstrate the adequacy of parking had been provided.
 - 3.2. 16/01/2004 – 2003/04034/PA - Change of use to retail warehouse – withdrawn.
 - 3.3. 16/01/2004 – 2003/05755/PA – change of use to community centre – withdrawn.
 - 3.4. 24/09/2007 - 2004/1017/ENF - Use of former car showroom as a furniture retail warehouse – Enforcement Notice served required cessation of retail use, however ultimately the case was closed.

- 3.5. 04/02/1988 – 10444010 – Erection of replacement car showroom alterations to existing elevations and boundary treatment. Approved subject to conditions.

4. Consultation/PP Responses

- 4.1. Ward members, Residents Associations and neighbouring occupiers notified. 1 objection received from a neighbouring business on the following grounds :
- Adverse effect on residents from noise and disturbance and anti-social behaviour
 - The site is currently in use without planning permission as a restaurant.
 - The external façade is out of character with the Lozells and Soho Hill Conservation Area with bright orange decoration and bright lighting in the windows
 - Parking levels are insufficient as there is only space on the forecourt for 4 cars, yet 86 covers are proposed. The City's car parking guidelines states there should be one space per 6 covers although clearly this level of parking cannot be achieved. The applicant has not provided any evidence to support their assertion that 85% of patronage will walk to the site and there is also no designated parking for staff.
 - The applicant's statement that there is parking available on street is not entirely accurate. Parking is restricted on the A41 in the vicinity of the site.
 - The development will adversely affect highway safety as the site offers no turning facilities for vehicles to exit. The site is currently split into 7 units and many of the users park vehicles on the footpath causing a danger to pedestrians and exiting vehicles.
 - The site is detrimental to other commercial properties in the area due to increase in parking on other frontages and security concerns.
 - The applicant has not resolved the issues raised with application 2007/01029/PA with regards to principle of the use in this location and the proposed level of parking.
 - It is our understanding that the site has never been granted consent for A1 or B8 uses as detailed in the applicants design and access statement. It was a car garage, with car repairs, car wash, tyre repair and storage and car spraying operating from units 4-7. As such, units 1-3 seem to be operating without any planning consent.
 - We consider that the sub-division and change of use has created parking issues that should be investigated further. The forecourt areas which should be used for parking cannot cope with the demand generated, the current occupiers are using the parking forecourt to display goods, and unit 2 is currently under redevelopment to split into 20+ smaller units which is likely to have a further detrimental effect.
- 4.2. Regulatory Services – No objections. Comments that the details of proposed extraction are unacceptable as they show a 'chinese hat' type cowl on the extract system. The system should exhaust vertically with no obstruction. A condition is recommended to agree revised details. Also recommends a condition in respect of the proposed hours of use.
- 4.3. Transportation Development – Raises concern regarding provision of sufficient parking. Advises that a maximum of 9 spaces should be provided in accordance with the car parking guidelines. Comments regarding existing parking restrictions in the locality. Comments that 2 of the forecourt parking spaces could not be accessed

without overriding the footpath. Considers that the levels of parking are deemed insufficient however the site is served with excellent public transport services. Recommends condition to prevent takeaway sales.

5. Policy Context

- 5.1. Adopted UDP (saved policies), BDP, Shopping and Local Centres SPD, A41 (Soho Road) Framework, Car Parking Guidelines SPD, NPPF.

6. Planning Considerations

- 6.1. Policy PG3 of the BDP relates to place making where a positive sense of place through good design is expected. Policy TP21 relates to the network and hierarchy of centres including Soho Road Neighbourhood Centre. The vitality and viability of these centres will be maintained and enhanced. Proposals which make a positive contribution to the diversity of these centres will be encouraged. Policy TP24 further addresses the promotion of diversity of uses within centres. This states that diversity will be encouraged to meet peoples day to day needs, including restaurants, subject to the maintenance of the role of the Primary Shopping Areas as identified in the Shopping and Local Centres SPD.
- 6.2. Paragraphs 8.6 and 8.7 of the UDP are saved policies pending their replacement in the Planning Management DPD. This relates to hot food takeaways and restaurants/cafes. The policy sets out the criteria to be considered in considering such uses including that such uses should normally be confined to shopping or areas of mixed commercial development, the consideration of cumulative impacts on amenity and traffic generation, the impact of evening opening of the amenity of the areas particularly residents, the impact on the vitality and viability of the frontage, the availability of parking, accessibility to public transport and the likelihood of traffic hazards taking place.
- 6.3. The site is located within the boundary of Soho Road Neighbourhood Centre as defined in the Shopping and Local Centres SPD, and is situated outside of the Primary Shopping Area (PSA). As such, there is no policy basis in which to resist the proposed use on the grounds of the loss of the retail role and function in the PSA.
- 6.4. The A41 (Soho Road) Framework identifies the site as part of a wider block of properties between Villa Road and Hamstead Road as the primary development opportunity within the neighbourhood centre. The guidance explains that the site represents one of the few opportunities in the Conservation Area to intervene in a major positive manner to bring about regeneration. The prominent and sensitive location of this site necessitates a development of quality and distinctiveness with creation of a gateway development to Soho Road District Centre. A range of suitable uses are identified including Retail, leisure, residential, offices, health, education and community uses. Whilst the guidance promotes the wider redevelopment of the area, this does not prevent individual sites being developed and should be assessed on their merits.
- 6.5. The Council's car parking guidelines SPD provides guidance on appropriate levels of parking for certain uses, which are expressed as maximum levels. In this case, the site is located within Area 2 being within a centre where the guideline is for 1 car parking space per 9 covers.

- 6.6. The NPPF establishes the principle of the presumption in favour of sustainable development. Paragraph 14 states that for decision-making this means approving development proposals that accord with the development plan without delay. The NPPF provides guidance on ensuring the vitality of town centres which is consistent with the guidance in the BDP with regard to diversity. Restaurants are included within the definition of main town centre uses in the Annex.
- 6.7. The lawful use of the site is considered to be a car showroom use which ceased around 2004. Since then, there have been unauthorised retail uses on the site for which enforcement action was pursued but the case subsequently closed. Notwithstanding this, it is clear that the guidance subsequently adopted in the Shopping and Local Centres SPD, the A41 Framework and the BDP now establishes the site to be within the boundary of the Soho Road centre, and as such the use of the site for retail or for restaurant uses would now be considered to accord with these policies. This represents a significant change in circumstances to those at the time of the previous refusal when the site was located outside of the centre at that time. As such, I consider that the proposed use is acceptable in principle.
- 6.8. Whilst I note the concerns and objections raised by the neighbouring business, principally on traffic and parking grounds, I do not consider that there would be such a harmful impact that would warrant refusal in this case. The fall-back position is a car showroom for which there is no prescribed parking standard, although this use would have required parking for staff and visitors. A retail use would require a maximum of 13-18 spaces (depending on the type of retail use). In comparison to this, the proposed restaurant would generate a lower level of parking when measured against the Council's car parking guidelines. The maximum standard for a restaurant would generate a need for 10 car parking spaces.
- 6.9. The forecourt area in front of the premises has enough space for 3-4 cars, which I consider to be satisfactory taking into account the location of the site within an established centre well served by public transport. To access these spaces some alterations are required to the vehicle crossover which currently only serves 2 spaces and there is a street lighting column that restricts access to one of the spaces. I have recommended a condition to agree appropriate works. Whilst I note the concerns about sub-division causing excessive parking, this is not something that would require consent. Given the limited available parking, I recommend that the sale of food for consumption off the premises is prevented by condition as such activity tends to generate errant parking.
- 6.10. There are no other restaurants or other hot food uses in the locality to raise any issues of cumulative impact. I note the comments of Regulatory Services regarding the details of the extraction system and have recommended a condition to agree revised details. I concur that the proposed opening hours are acceptable in this location.
- 6.11. The Conservation officer advises that they have no objections. The premises do not currently make a positive contribution to the Conservation Area, having a functional appearance with modern cladding materials. The shopfront alterations have had negligible effect. The A41 Framework policy promotes the wider redevelopment of the area, which would present an opportunity to significantly enhance the character and appearance of the Conservation Area, but until then I do not consider that it would be appropriate to resist investment into the premises that will generate some economic activity and create local jobs.

7. Conclusion

- 7.1. The proposed development accords with the relevant policies in the BDP, Shopping and Local Centres SPD and the NPPF regarding the suitability of this location for a proposed restaurant use. Notwithstanding the objections raised, including the concerns regarding traffic and parking, I consider that this will be acceptable.

8. Recommendation

- 8.1. Approval subject to conditions.

-
- 1 Limits the hours of use
The premises shall only be open for customers between the hours of 07:00-23:30 hours Mondays-Sundays.
Reason: In order to define the permission and safeguard the amenities of occupiers of premises/dwellings in the vicinity in accordance with Policy PG3 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
- 2 Prevents food to be sold for off-site consumption
The premises shall not be used for the sale of food for consumption off the premises.
Reason: In order to define the permission and in the interests of preventing traffic and parking problems in the highway in accordance with Policies TP38 and TP44 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
- 3 Requires the prior submission of extraction and odour control details
No development shall take place until revised details of the extract ventilation and odour control equipment, including details of any noise levels, noise control and external ducting has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and thereafter maintained.
Reason: In order to secure the satisfactory development of the application site and safeguard the amenities of occupiers of premises/dwellings in the vicinity in accordance with Policy PG3 of the Birmingham Development Plan 2017 and the NPPF
- 4 Requires the prior submission and completion of works for the S278/TRO Agreement
The development shall not be occupied until a package of highway measures has been approved by the Local Planning Authority and the approved measures have been substantially completed. The package of measures shall include alterations to existing vehicle crossovers to serve proposed forecourt parking and are to be carried out at the applicants expense to Birmingham City Council specification.
Reason: In order to secure the satisfactory development of the application site in the interests of highway safety in accordance with Policies PG3 and TP44 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
- 5 Requires the scheme to be in accordance with the listed approved plans
The development hereby approved shall be implemented in accordance with the details submitted with the application and shown on drawing numbers 001 (site location and block plan), 002 (existing layout plan), 003 (existing elevation details), 004 (amended proposed elevation), unnumbered proposed floor plan ('the approved
-

plans')

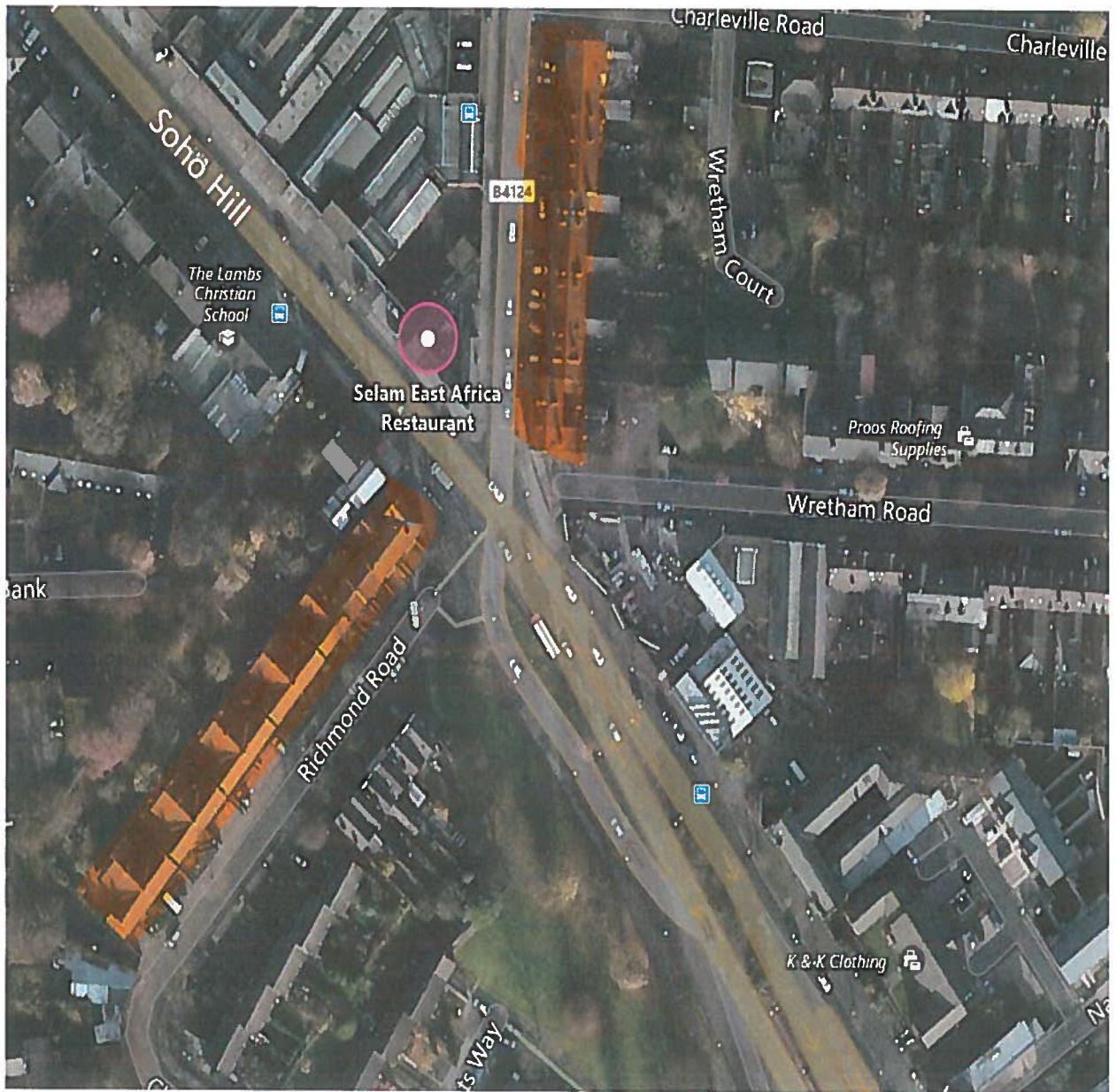
Reason: In order to define the permission in accordance with Policy PG3 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.

6 Implement within 3 years (Full)

The development hereby permitted shall be begun before the expiration of (3) years from the date of this permission.

Reason: In order to comply with Section 91 of the Town and Country Planning Act 1990 (as amended) and the National Planning Policy Framework.

Case Officer: Stuart Morgans



Vicki Demuth

From: bw licensing
Sent: 06 November 2017 09:22
To: 'Licensing Online'; bw licensing; Alcohol@homeoffice.gsi.gov.uk; TradingStandards; Pollution Team; firesafety.admin@wmfs.net; PlanningandRegenerationEnquiries; Safeguarding Children & Licensing; Birmingham Public Health
Subject: RE: GRANT - SELAM EAST AFRICAN RESTAURANT - 136-150 SOHO HILL, BIRMINGHAM, B19 1AF

Licensing,

With regards to this application. West Midlands Police formally make representation to this application being granted.

The grounds for making representation are –

- Prevention of crime and disorder – Since the applicant and his business partner have taken over the premises there have been several issues of violence and disorder at the premises which have occurred into the early hours of the morning. Also, over the past year there have been unauthorised licensable activity take place at the premises which the owner has admitted to.
- Prevention of public nuisance – Again, over the past year West Midlands Police have received complaints from local residence of noise which has gone on into the early hours.

Due to the above, West Midlands Police are not satisfied that the applicant or those associated with the premises will promote the licensing objectives.

Regards

Deano

PC 1978 Deano Walker
Birmingham Police Central Licensing Team
Birmingham Partnerships
Lloyd House
Federation Health & Safety Lead.



Direct Dial - 0121-626-6099



Internal Ext - 801-1626



Mobile - 07391 019 369



deano.walker@west-midlands.pnn.police.uk



bw_licensing@west-midlands.pnn.police.uk

From: Geeta Bangerh [<mailto:Geeta.Bangerh@birmingham.gov.uk>] **On Behalf Of** Licensing Online
Sent: 30 October 2017 16:57
To: bw licensing; Alcohol@homeoffice.gsi.gov.uk; TradingStandards; Pollution Team; firesafety.admin@wmfs.net; PlanningandRegenerationEnquiries; Safeguarding Children & Licensing; Birmingham Public Health
Subject: GRANT - SELAM EAST AFRICAN RESTAURANT - 136-150 SOHO HILL, BIRMINGHAM, B19 1AF

Dear Sirs

Please find attached grant application I have received on GOV.UK.

Kind Regards

Geeta Bangerh
Licensing Officer

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

General Licensing:
Telephone: 0121 303 9896

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Vicki Demuth

From: bw licensing
To: Vicki Demuth
Subject: FW: 152-154 Soho Hill, Birmingham, B19 1AF
Attachments: Home Office advice for local residents - Review Fact Sheet.pdf

From: [REDACTED]
Sent: Sunday, November 05, 2017 10:27 PM
To: [REDACTED]
Subject: Re: 152-154 Soho Hill, Birmingham, B19 1AF

Hi I'm so sorry I haven't been in touch has had a loss in our family.. I'm just writing to u has on 4/11/2017 Salem had one of the most biggest nights ever so many people so many cars loud music untill 5 -6 in the morning.. also live band People smoking in there just has it was a night club. this is not the first time it's happend since been in touch but one of the worse by far. they have a fb page advertising live music and also now have had sky tv fitted which we know they need entertainment licence the noise of last night actually made our windows shake it was that loud I did contact the police on 101 but they told me there is nothing they can do . So I made a noise complaint to the council here is my refence number

> Ref: [REDACTED]

I can't belive that the premise is still open to be honest with how many laws they are breaking I worry it will take somebody to be killed in that place before anything is done about it like [REDACTED].
many thanks.

[REDACTED]
My home number [REDACTED]
