

**BIRMINGHAM CITY COUNCIL**  
**LICENSING SUB-COMMITTEE C**

**Wednesday 7 July 2021 at 1000**  
**hours as an On-Line Meeting,**  
**Microsoft Teams**

**A G E N D A**

**1     NOTICE OF RECORDING**

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's meeting You Tube site ([www.youtube.com/channel/UCT2kT7ZRPFCXq6\\_5dnVnYlw](http://www.youtube.com/channel/UCT2kT7ZRPFCXq6_5dnVnYlw)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

**2     DECLARATIONS OF INTERESTS**

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

**3     APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

**Attached**

**4     CASEY JOES PUBLIC HOUSE & RESTAURANT 1293 - 1295 WARWICK ROAD ACOCKS GREEN B27 6PU - LICENSING ACT 2003 AS AMENDED BY THE VIOLENT CRIME REDUCTION ACT 2006 - APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENCE: REPRESENTATIONS IN RESPECT OF THE INTERIM STEPS IMPOSED ON 2 JULY 2021.**

N.B. Application scheduled to be heard at 1000 hours.

Documents submitted.

- A.     Representations made by the premises licence holder
- B.     Decision of the meeting held on 2 July 2021
- C.     Certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003
- D.     Application for an expedited Review of Premises Licence

E. Copy of Premises Licence

F. Location maps

The premises licence holder has made representations (See A above) in respect of the interim steps imposed on 2 July 2021 (See B above) following the application from West Midlands Police for an expedited review of the premises licence in respect of Casey Joes Public House & Restaurant 1293 - 1295 Warwick Road Acocks Green B27 6PU. The application was accompanied by a certificate signed by a senior member of the force, stating that in their opinion the licensed premises is associated with serious crime and/or disorder which was made under Section 53A of the Licensing Act 2003 (as amended). (See C and D above)

In accordance with the regulations, the licensing authority has given the premises licence holder and responsible authorities a copy of the application for review and a copy of the certificate.

This hearing has been arranged in order to consider whether it is necessary to take any interim steps in respect of the licence pending the determination of the review. The Premises Licence is included at item E.

At the hearing the licensing authority must:

- consider whether the interim steps are appropriate for the promotion of the licensing objectives; and
- determine whether to withdraw or modify the steps taken.

When considering the case, the licensing authority must take into account:

- the senior officer's certificate that accompanies the application,
- the chief officer's representations (if any); and
- any representations made by the premises licence holder.

There is no right of appeal to a magistrates court against the licensing authority's decision at this stage.

## **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.

**From:** Duncan Craig <[Duncan.Craig@citadelchambers.com](mailto:Duncan.Craig@citadelchambers.com)>

**Sent:** 06 July 2021 00:00

**To:** Licensing <[licensing@birmingham.gov.uk](mailto:licensing@birmingham.gov.uk)>

**Cc:** bw licensing <[bw\\_licensing@west-midlands.pnn.police.uk](mailto:bw_licensing@west-midlands.pnn.police.uk)>; [b.reader](mailto:b.reader)

**Subject:** Casey Joes Public House, 1293-1295 Warwick Road, Acocks Green, Birmingham, B27 6PU

Dear Licensing

I act for the above premises licence holder, whose licence was subject to a S53A Licensing Act 2003 application by West Midlands Police, dated 1<sup>st</sup> July 2021.

I hereby inform Birmingham City Council's licensing authority that the licence holder, Caroline Dowling, makes representations against the interim step of suspension imposed upon the premises licence by the licensing authority on 2<sup>nd</sup> July 2021, in accordance with section 53B(6) of the Licensing Act 2003.

Please could you arrange a hearing to consider those representations within 48 hours (excluding non-working days) of this notification.

I have a hearing on Wednesday morning and would therefore greatly appreciate if this hearing could be arranged for Wednesday afternoon, anytime after 3pm, otherwise I may need to make arrangements for alternative representation for the licence holder. I have tried to liaise with your licensing section as much as possible in advance of this email

I have copied West Midlands Police into this email.

Kind regards,

Duncan Craig

Barrister

**E |** [duncan.craig@citadelchambers.com](mailto:duncan.craig@citadelchambers.com)

**W |** [www.licensingbarrister.co.uk](http://www.licensingbarrister.co.uk)

**T |** 07544 987300

The logo for Duncan Craig, consisting of the name "DUNCAN CRAIG" in a bold, white, sans-serif font centered on a dark blue rectangular background.



Citadel Chambers | 190 Corporation Street | Birmingham | B4  
6QD

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## BIRMINGHAM CITY COUNCIL

### LICENSING SUB COMMITTEE - A

FRIDAY 2 JULY 2021

#### **Casey Joes Public House & Restaurant, 1293 - 1295 Warwick Road, Acocks Green B27 6PU**

That having considered the application made and certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003 for an expedited review of the premises licence held by Mrs Caroline Marie Dowling in respect of Casey Joes Public House & Restaurant, 1293 - 1295 Warwick Road, Acocks Green B27 6PU, this Sub-Committee determines:

- that the licence be suspended pending a review of the licence, such a review to be held within 28 days of receiving the Chief Officer of Police's application, and
- that Mrs Caroline Marie Dowling be removed as the Designated Premises Supervisor

Members heard the submissions of West Midlands Police, namely that the certificate issued by the Assistant Chief Constable under s53A(1)(b) of the Act related to an assault under section 18 of the Offences Against the Person Act 1861 which had happened at the premises on the Sunday before the meeting. The evidence, part of which was heard with the public excluded from the hearing following a request from West Midlands Police, in accordance with Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, was that on the day in question it was poor management control which had led to the incident.

The background to the certificate issued by the Assistant Chief Constable was that in November of 2020 it had been observed that the "Casey Joes" premises had not been following the Government Guidance relating to Covid-19, which set out the requirements for all licensed premises to trade safely in the pandemic. West Midlands Police spoke to Mrs Dowling at the time, to advise her on the measures to be taken.

Upon viewing the CCTV footage of Sunday 27<sup>th</sup> June 2021, the Police observed that on the night of the assault patrons were not seated and/or being served at tables, as required by the Government Guidance. Instead, some were standing at the bar and others were walking about freely; one individual was even dancing. Masks were not being worn as patrons mingled and interacted with others, in direct contravention of all official guidance. There was no challenge to any of this from any staff member.

The failure to provide a safe environment had led to an outbreak of serious crime in which one patron had been violently assaulted by another. The person who was assaulted had been taken to hospital with an injury which, at the time, had been assessed as life-threatening.

In deliberating, the Sub-Committee agreed with the Police that the causes of the serious crime appeared to originate from unsatisfactory internal management procedures at the premises. The Sub-Committee found the Police evidence relating to the assault to be alarming, and not something that inspired the slightest confidence in the management arrangements at the premises.

The Sub-Committee agreed with the Police that this was a very serious breach and that it was overwhelmingly likely that poor management practices were to blame. The management control of the premises was unsatisfactory even in the most general terms – for example, basic Covid measures were not yet in place, despite Police advice having been given to Mrs Dowling some nine months ago, and the pandemic having dominated the everyday life of the nation for the past sixteen months.

The Sub-Committee agreed with the Police view that they had no confidence in Mrs Dowling to ensure safe operation. All in all, the Sub-Committee considered the licence holder to have failed to take her responsibilities seriously. Mrs Dowling did not attend the meeting; nor did anybody else representing the premises.

The Sub-Committee determined that it was both necessary and reasonable to impose the interim step of suspension to address the immediate problems with the premises, namely the likelihood of further serious crime.

The Sub-Committee considered whether it could impose other interim steps, including modification of licence conditions, but considered that this would offer little to address the real issues, which were the unsatisfactory practices and the irresponsible attitude shown by the licence holder, both of which were a significant risk to the upholding of the licensing objectives.

However, the Sub-Committee determined that the removal of the designated premises supervisor was a very important safety feature, given that it was this individual who was responsible for the day to day running of the premises. Therefore the risks could only be properly addressed first by the suspension of the Licence, and secondly by the removal of the designated premises supervisor, pending the full Review hearing.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued by the Home Office under s182 of the Act, and the submissions made by the Police at the hearing.

All parties are advised that the premises licence holder may make representations against the interim steps taken by the Licensing Authority. On receipt of such representations, the Licensing Authority must hold a hearing within 48 hours.

All parties are advised that there is no right of appeal to a Magistrates' Court against the Licensing Authority's decision at this stage.

# West Midlands Police

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

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

**Premises: Casey Joes Public House and Restaurant**

**Premise Licence Number: 3196**

**Premise Licence Holder: Caroline Dowling**

**Designated Premise Supervisor: Caroline Dowling**

**I am a Superintendent in West Midlands Police.**

I am giving this certificate because I am in the opinion that the procedures under the Licensing Act are inappropriate in this case because the standard review procedures are thought to be inappropriate due to the seriousness of the crime, and the serious management failings of the premises concerned.

This venue has previously been engaged with by licensing officers and advised of the potential enforcement routes that could be taken.

On Sunday 27<sup>th</sup> June this premises again operated without properly implementing social distancing measures. The CCTV shows people dancing, standing at the bar area and movements around the venue are made without masks.

An incident takes place in the centre of the pub, where a male is setting up his camera to record himself dancing. This male is assaulted from behind by a single punch which knocks him to the floor. As a result of this assault, the injured party received a broken jaw, a fractured skull and a bleed on the brain. This has been crimed as an offence of Section 18 assault.

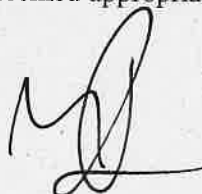
A section 18 assault is a serious crime which warrants the use of this power.

I have considered the use of the normal review procedure but I do not feel this would be appropriate in these circumstances due to the above reasons, and the fact that to maintain the licensing objective of preventing crime and disorder the normal review procedure would not be sufficient.

The severity of the incident is a matter that needs to be brought to the attention of the Licensing Committee immediately.

I am conscious of the guidance on the use of "Expedited Reviews" and given the emphasis that is given to use of this power to tackle serious crime and disorder, my feelings that this process is deemed appropriate are further enforced.

Signed



ACC 4161 1/7/21







**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

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

1. **MARK PAYNE**

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

1. Premises details: **Casey Joes Public House and Restaurant**

Postal address of premises, (or if none or not known, ordinance survey map reference or description):

**Ground floor and first floor  
1293 – 1295 Warwick Road  
Olton  
Birmingham  
B27 6PU**

2. Premises Licence details:

Name of premise licence holder (if known): **Mrs Caroline Dowling**

Number of premise licence (if known): **3196**

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

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

(Please tick the box to confirm)



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

(Please read guidance note 2)

#### **Covid-19 pandemic context**

Guidelines for licensed premises under the UK government's strategy are found in a document called "Keeping workers and customers safe during Covid 19, in restaurants, pubs, bars and takeaway services":

<https://assets.publishing.service.gov.uk/media/5eb96e8e86650c278b077616/working-safely-during-covid-19-restaurants-pubs-takeaways-240920.pdf>

This guidance was designed to show how premises could open and what they would need to do to minimise any potential spread of the disease. This document provided guidance in matters such as, risk assessments, queue control, social distancing:

The police approach has been around the 4 E's principle, Engage, Explain, Encourage, Enforce. It is imperative that hospitality trade comply with the rules set down, to curb the growth of the disease.

Since 17<sup>th</sup> May 2021, step 3 measures have been in place. This means that indoor hospitality can operate, subject to having a covid secure risk assessment and numerous control measures to ensure social distancing is in place. Table service is required and those tables are limited to 6 people, or two households. Customers should order, be served and then eat/drink whilst seated.

#### **The Premises: Casey Joes**

Casey Joes have been engaged with by licensing officers since November 2020. There was a breach of Covid regulations on the 1<sup>st</sup> November. This led to licensing Officer Chris Jones speaking with the licence holder and DPS, Caroline Dowling. This was followed up with an email on 13<sup>th</sup> November advising Caroline of enforcement options moving forwards.

On Sunday 27<sup>th</sup> June 2021, WMP officers were called to attend the premises following a report of an injured male being treated by an ambulance crew. The male has been punched to the head, was unconscious and bleeding from his ears.

CCTV from the premises has been viewed. It shows the offender calmly walking over to the dance floor, placing his drinks down on a table and then viciously punching the injured male from behind. The injured male had no idea the punch was coming and he drops to the floor unconscious. As a result of the punch, the injured male had a broken jaw, fractured skull and a bleed on the brain. This has been crimed as a section 18 assault and the offender has now been charged. Current indications are that the I.P's condition not life threatening, however IP will have permanent scarring and deformity in relation to his Jaw.

A short CCTV clip, capturing the seconds before and moment of the assault, is provided as part of this application for reference. There is additional footage which can be placed before the committee in due course which shows the lead up to the attack. The offender is seemingly unhappy with a perceived slight to his friend, matters calm down only for the assault to happen, out of the blue, later.

Notably, in addition to the violent assault, licensing officers' concerns stem from the fact that the CCTV also shows that the premises was not complying with Covid secure guidance referred to above.

Customers were gathered at the bar area, some customers were dancing and moving around freely without any masks on. They were standing up drinking and walking about with drinks.

The injured male, the offender and his friend interacted prior to the assault. They were in separate social groups and unknown to each other. These interactions would not have been possible with the current guidance in place. The premises have failed to operate a safe venue which has clearly been a contributory factor to this assault taking place. Customers are behaving as if social distancing measures are not in operation in the venue. The injured male also appears to be intoxicated from the way he is moving around on CCTV, this would raise questions about levels of drunkenness and customers still being served.

The premises have failed to promote the licensing objectives and failed to provide a covid secure environment for customers.

"Serious crime" is defined by reference to S.81 of RIPA Act 2000. An offence for which an adult could reasonably be expected to be sentenced to imprisonment for a period of 3 years or more. The suspect was charged with s. 18 (GBH with intent) and was remanded to appear before Birmingham Magistrates on 30/06/21.

West Midlands Police are concerned that the management failings at this premises have contributed to a serious assault taking place and wish to bring this to the urgent attention of the licensing committee.

Signature of applicant:



Date: 1/7/21

Rank/Capacity: ACC 4161 PAYNE

Contact details for matters concerning this application: BW Licensing

Address: Licensing Dept c/o Birmingham West and Central Police Station, Birmingham

Telephone Number(s): 0121 626 6099

E-mail - [bw\\_licensing@west-midlands.police.uk](mailto:bw_licensing@west-midlands.police.uk)

Notes for guidance:

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

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

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

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

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

*[Handwritten signature]*

*[Handwritten text, possibly "1/1/11"]*

**LICENSING ACT 2003****PREMISES LICENCE**

Premises Licence Number:

3196 / 1

**Part 1 - Premises details:**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>	
Casey Joes Public House and Restaurant Ground Floor and First Floor 1293 - 1295 Warwick Road Olton	
<b>Post town:</b>	<b>Post Code:</b>
Birmingham	B27 6PU
<b>Telephone Number:</b>	
Not Specified	

**Where the licence is time limited the dates**

N/A

**Licensable activities authorised by the licence**

B	Films
C	Indoor sporting events
E	Live music
F	Recorded music
G	Performances of dance
J	Provision of facilities for dancing
L	Late Night Refreshment
M3	Sale of alcohol by retail (both on & off the premises)

**The times the licence authorises the carrying out of licensable activities**

Monday – Thursday	10:00 - 23:30	B,C,E,F,G,J,M3
	23:00 - 23:30	L
Friday – Sunday	10:00 - 00:00	B,C,E,F,G,J,M3
	23:00 - 00:00	L
First Floor Function Area (Pre-booked functions) Monday - Sunday	10:00 - 02:00	All
Ground Floor: The finish hour extended by 1 hour on the following dates each year: 14 <sup>th</sup> February, 17 <sup>th</sup> March, 31 <sup>st</sup> October, 5 <sup>th</sup> November, 24 <sup>th</sup> December, 26 <sup>th</sup> December, All Sundays prior to a bank holiday Monday.		All
Finish hour extended by 3 hours on 31 <sup>st</sup> December (New Years Eve).		All

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### The opening hours of the premises

Monday – Thursday	10:00	-	00:00
Friday – Sunday	10:00	-	01:00
First Floor Function Area (Pre-booked functions) Monday – Sunday	10:00	-	03:00

Ground Floor: The finish hour extended by 1 hour on the following dates each year:  
14<sup>th</sup> February, 17<sup>th</sup> March, 31<sup>st</sup> October, 5<sup>th</sup> November, 24<sup>th</sup> December, 26<sup>th</sup> December,  
All Sundays prior to a bank holiday Monday.

Finish hour extended by 3 hours on 31<sup>st</sup> December (New Years Eve).

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

On and Off Supplies

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**Part 2**

<b>Name, (registered) address, telephone number and email (where relevant) of holder of premises licence</b> Mrs Caroline Marie Dowling	
<b>Post town:</b>	<b>Post Code:</b>
<b>Telephone Number:</b>	
<b>Email</b> N/A	

<b>Registered number of holder for example company number or charity number (where applicable)</b> N/A
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<b>Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol</b> Ms Caroline Marie Dowling	
<b>Post town:</b>	<b>Post Code:</b>
<b>Telephone Number:</b> N/A	

<b>Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol</b>	
<b>Licence Number</b> SOL/PE/045/2005	<b>Issuing Authority</b> SOLIHULL METROPOLITAN BOROUGH COUNCIL

Dated 08/04/2009

Nicola Stansbie  
Senior Licensing Officer  
For Director of Regulatory Services

**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.

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.



**Annex 2 – Conditions consistent with operating schedule**

**2a) General conditions consistent with the operating schedule**

The Licence Holder will ensure that there is a CCTV system fitted at the Premises which is to the satisfaction of West Midlands Police.

The Licence will ensure that the CCTV is in operation at all times whilst the Premises are open for licensable activities and any images will be retained for a minimum of 28 days.

All image held on the system will be made available to any Responsible Authority (as defined in the Licensing Act 2003) on request.

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

If door supervisors are employed at the Premises (which is at the full discretion of the Premises Licence Holder), then the following conditions 1, 2 and 3 will apply:

- 1) Door Supervisors will wear high visibility jackets or high visibility armbands containing their SIA registration.
- 2) Door Supervisors will sign on duty as they start work and off duty when they are leaving.
- 3) Door Supervisors working at the Premises will have a profile of themselves which will be kept in a secure location in the Premises.

The premises will have an incident book and record all incidents that occur inside or immediately outside the premises, irrespective of whether any of the emergency services have been called. This book can be inspected at any time by any Responsible Authority (as defined by the Licensing Act 2003).

Individuals who are drunk, disorderly, or both will not be permitted access to the premises.

The DPS will actively participate in the local Pubwatch scheme (if any) run by or in association with West Midlands Police.

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

No enforceable conditions identified from operating schedule.

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

Whenever there is music or live entertainment in any of the rooms, the doors and windows of the north west facade (particularly the escape door marked on the ground floor plan attached to the licence) shall be fixed closed, except for access and egress.

Self closers shall be fitted to all external doors on the north east facade.

The Licence Holder shall ensure that a written agreement is made with reputable taxi company to ensure that when taxi's pick u and drop off customers from the licensed premises that noise from these vehicles does not cause a nuisance to local residents. For the avoidance of doubt a letter from a taxi company confirming the same will suffice.

Customers who require a taxi from the site shall be advised by staff to use taxi companies specified by the licence.

Notices shall be displayed within the licensed premises for customers to view giving details of taxi companies to use.

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The designated smoking areas shall be in front of the main entrance of the bar and the roof terrace on the first floor at the rear of the premises.

Entertainment shall be held internally only and no music or speakers shall be provided to external areas of the premises.

The conduct of patrons leaving the premises will be monitored to minimise potential nuisance.

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

All staff must be trained by a personal licence holder or another capable person prior to serving/selling alcohol at the premises.

All documentation relating to staff training on alcohol sales for persons involved in those duties at the premises, shall be kept on the premises for inspection by any responsible authority (as defined by the Licensing Act 2003) on request.

The Premises shall operate a Challenge 21 policy.

Under age refusals will be logged in a refusal register, which must be available for inspection by any of the Responsible Authority (as defined by the Licensing Act 2003).

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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

**Annex 4 – Plans**

The plan of the premises with reference number **59693-3196/1** 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.

