

# BIRMINGHAM CITY COUNCIL

## PUBLIC REPORT

|                         |  |
|-------------------------|--|
| <b>Report to:</b>       | <b>Licensing Sub Committee C</b>   |
| <b>Report of:</b>       | <b>Assistant Director of Regulation and Enforcement</b>  |
| <b>Date of Meeting:</b> | <b>Wednesday 12<sup>th</sup> April 2023</b>  |
| <b>Subject:</b>         | <b>Licensing Act 2003<br/>Premises Licence – Summary Review</b>  |
| <b>Premises:</b>        | <b>Great Western Hotel, 10 Yardley Road, Acocks Green, Birmingham, B27 6EB</b>   |
| <b>Ward affected:</b>   | <b>Acocks Green</b>  |
| <b>Contact Officer:</b> | <b>Bhupinder Nandhra, Senior Licensing Officer,<br/><a href="mailto:licensing@birmingham.gov.uk">licensing@birmingham.gov.uk</a></b> |

### **1. Purpose of report:**

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

### **2. Recommendation:**

To consider the review application and to determine this matter, having regard to:

- The submissions made by all parties
- The Statement of Licensing Policy
- The Public Sector Equality Duty
- The s182 Guidance

### **3. Brief Summary of Report:**

An application under Section 53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) was received on 16<sup>th</sup> March 2023 in respect of Great Western Hotel, 10 Yardley Road, Acocks Green, Birmingham, B27 6EB.

### **4. Compliance Issues:**

#### **4.1 Consistency with relevant Council Policies, Plans or Strategies:**

The report complies with the City Council's Statement of Licensing Policy and the Council's Corporate Plan to improve the standard of all licensed persons, premises and vehicles in the City.

## **5. Relevant background/chronology of key events:**

On 16<sup>th</sup> March 2023, Chief Superintendent North, on behalf of West Midlands Police, applied for a review, under Section 53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006), of the Premises Licence granted to EI Group PLC in respect of Great Western Hotel, 10 Yardley Road, Acocks Green, Birmingham, B27 6EB.

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

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

Licensing Sub-Committee C met on 17<sup>th</sup> March 2023 to consider whether to take any interim steps and resolved that the licence be suspended pending the review of the licence. A copy of the decision is attached at Appendix 2.

The review application was advertised, by the Licensing Authority in accordance with the regulations; the closing date for responsible authorities and other persons ended on 31<sup>st</sup> March 2023.

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

Site location plans are attached at Appendix 4.

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

- a. The prevention of crime and disorder;
- b. Public safety;
- c. The prevention of public nuisance; and
- d. The protection of children from harm.

## **6. List of background documents:**

Review Application and Certificate from West Midlands Police, Appendix 1  
Sub-Committee Interim Steps Meeting decision 17<sup>th</sup> March 2023, Appendix 2  
Current Premises Licence, Appendix 3  
Site location plans, Appendix 4

## **7. Options available:**

Modify the conditions of Licence  
Exclude a Licensable activity from the scope of the Licence  
Remove the Designated Premises Supervisor  
Suspend the Licence for a period not exceeding 3 months  
Revoke the Licence  
Take no action

In addition the Sub Committee will need to decide what action, if any, should be taken regarding the interim steps imposed on the 17<sup>th</sup> March 2023.



## PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I *Y* Superintendent *22442 Richard North*

(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: **Great Western Hotel**

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

**10 Yardley Road, Acocks Green  
Post Town: Birmingham**

Post Code (if known): **B27 6EB**

### 2. Premises Licence details:

Name of premise licence holder (if known):

**Ei Group Ltd (now part of Stonegate Group) 3 Monkspath Hall Rd, Shirley B90 4SJ**

Number of premise licence (if known):

**368**

### 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)

The premises is a large public house, within with a front bar area and a lager rear room.

On Monday 13<sup>th</sup> March 2023 at approximately 21.35hrs there was a serious disorder at the premises which has resulted in a section 18 assault being recorded. There is a current ongoing live criminal investigation.

Section 18 assault is defined as – assault with intent to cause serious harm – wounding with intent to do grievous bodily harm.

This meets the definition of serious crime as 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 disorder took place within the licence premises where pool cues, pool balls and bottles were used against the victim. This has been captured on CCTV which has been viewed by licensing officers.

West Midlands Police have spoken with the premises licence holders with the intention of putting immediate measures in place to stop a reoccurrence of such a violent incident and to promote the licensing objectives.

On speaking with the premises licence holder, they informed licensing officers that they were currently in dispute with the tenant, with legal proceedings taking place.

This has created an extremely rare situation where by the licence holder does not have any communication with the tenant. This means that they are not in position to change or even influence the premises' operation.

This means that any mediation between WMP and the licence holder has little value, as will not be followed through into the day to day operation. This gives WMP serious concerns that the licensing objectives will not be promoted.

West Midlands Police are concerned that due to the premises licence holder having no control of the current operation of the premises, and what has been observed to have taken place, there is serious risk of harm to the public.

Signature of applicant:

C/Supt. 22492

Date: 15/03/2023

Rank/Capacity: CHIEF SUPERINTENDENT 22492, COMMANDER BIRMINGHAM

Contact details for matters concerning this application: BW Licensing

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

**Telephone Number(s):**

**E-mail -**

**Notes for guidance:**

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

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

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

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

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

# West Midlands Police

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

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

**Premises: Great Western Hotel  
10 Yardley Road  
Birmingham  
B27 6EB**

**Premise Licence Number: 368**

**Premise Licence Holder: El Group Ltd (now part of Stonegate Group)**

**Designated Premise Supervisor: Jasmine Kaur Rama**

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

I am giving this certificate because I am of the opinion that the summary review procedure is necessary to ensure the licensing objectives are promoted expeditiously. Given the seriousness of the disorder and the significant lack of control that the licence holder has, in my opinion immediate steps are required that can best be achieved through the summary review procedures. Other steps available under the Licensing Act 2003, including a standard review application, cannot lead to the imposition of immediately effective steps to promote the licensing objectives and so these are inadequate. I view this application as a proportionate and necessary response to the serious incident at the venue.

Signed



C/Sgt. 22442.

Date

15/03/23.

Superintendent  
Birmingham West and Central Police Station



## **BIRMINGHAM CITY COUNCIL**

### **LICENSING SUB COMMITTEE - C**

**FRIDAY 17 MARCH 2023**

#### **GREAT WESTERN HOTEL, 10 YARDLEY ROAD, BIRMINGHAM B27 6EB**

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 EI Group PLC in respect of Great Western Hotel, 10 Yardley Road, Birmingham B27 6EB, 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

The Sub-Committee's reasons for imposing the interim step were due to the concerns which were expressed by West Midlands Police in relation to matters pertaining to serious crime, which had come to light as outlined in the Chief Superintendent's certificate and application. The Sub-Committee determined that the cause of the serious crime was likely to have originated from an operating style which had failed to uphold the licensing objectives.

The meeting was conducted in private session after the Sub-Committee considered an application made by the licence holder's solicitor under regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005. West Midlands Police supported the application to hear the evidence in private session due to the ongoing criminal investigation. The Sub-Committee therefore agreed to hear the evidence in private session.

Members heard the submissions of West Midlands Police, namely that the certificate, which had been issued by a Chief Superintendent under s53A(1)(b) of the Act, related to an allegation of serious crime which had happened inside the premises. The Police summarised the investigation thus far – exactly as detailed in the Report. It was the advice of the Police that the interim step of suspension was required in order to deal with the causes of the serious crime. A criminal investigation was under way.

The premises was a large public house, with a front bar area and a larger rear room. On Monday 13th March 2023, at approximately 21.35 hours, there had been a serious disorder at the premises which had resulted in an assault under s18 of the Offences Against the Person Act 1861. That offence met the definition of "serious crime" under s81 of the Regulation of Investigatory Powers Act 2000.

The disorder had taken place within the licence premises. Pool cues, pool balls and bottles had been used against the victim. CCTV had been viewed by the Police; this was shown to the Sub-Committee in private session.

West Midlands Police had spoken to those at the premises licence holder company, and had noted that those at the company had been "open and honest". Due to a dispute

between the licence holder and the tenant of the premises, the licence holder was unable to influence the operation of the premises. The Police therefore had serious concerns that the licensing objectives would not be promoted if the premises continued to trade, and in particular that there was a risk of further serious crime; for this reason the Police recommendation was that the licence should be suspended.

The Sub-Committee then heard from the solicitor acting for the licence holder. He explained that licence holder had cooperated with Police, and intended to continue to do so; he confirmed that the licence holder did not object to the course proposed by the Police, namely the suspension of the licence pending the full review hearing.

In deliberating, the Sub-Committee determined that there had been a serious crime incident, which was being investigated by Police. It was clear that the operation was not being run in accordance with the licensing objectives. The Sub-Committee noted that the Police had advised that the licence should be suspended “to avoid a serious risk of harm”.

The Sub-Committee found the Police recommendation to be the proper course, and determined that it was both necessary and reasonable to impose the interim step of suspension of the licence to address the immediate problems with the premises, namely the potential for further serious crime.

The Sub-Committee did not consider whether it could impose alternative interim steps as there had been no objection to the suspension from the solicitor for the licence holder. The solicitor observed that there had not been any issues before the incident of the 13<sup>th</sup> March 2023, and the premises had not been any cause for concern to the Police.

Whilst announcing the decision at the end of the meeting, the Chair of the Sub-Committee invited the Police to inform the designated premises supervisor of the decision. The Police confirmed that they would notify the designated premises supervisor today.

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, the written submissions made, and the submissions made at the hearing by West Midlands Police, and by the solicitor representing the licence holder.

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.



**LICENSING ACT 2003****PREMISES LICENCE****Premises Licence Number:****368 / 9****Part 1 - Premises details:**

|   |                   |
|---|-------------------|
| <b>Postal address of premises, or if none, ordnance survey map reference or description</b> |                   |
| Great Western Hotel<br>10 Yardley Road<br>Acocks Green                                      |                   |
| <b>Post town:</b>   | <b>Post Code:</b> |
| Birmingham  | B27 6EB           |
| <b>Telephone Number:</b>  |                   |

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

N/A

**Licensable activities authorised by the licence**

|    |  |
|----|--|
| E  | Live music   |
| F  | Recorded music   |
| M3 | Sale of alcohol by retail (both on & off the premises) |

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

|               |       |   |       |        |
|---------------|-------|---|-------|--------|
| Monday-Sunday | 10:00 | - | 00:00 | E,F,M3 |
|---------------|-------|---|-------|--------|

A further additional hour into the morning following every Friday, Saturday, Sunday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday weekend. A further additional hour into the morning following every Thursday, Friday, Saturday, Sunday and Monday for the Easter Bank Holiday weekend. A further additional hour every Christmas Eve & A further additional hour every Boxing Day.

On New Years eve from the end of permitted hours New Years Eve until the commencement of hours on New Years Day.

NB: All of the above to be for the sale of alcohol, recorded music and live music limited to two entertainers and Karaoke.

**The opening hours of the premises**

|               |       |   |       |
|---------------|-------|---|-------|
| Monday-Sunday | 10:00 | - | 00:30 |
|---------------|-------|---|-------|

NB: Opening hours may be extended to reflect any such extension of the permitted times for licensable activities as are detailed above.

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

On and Off Supplies

**Part 2**

|  |                                  |
|--|----------------------------------|
| <b>Name, (registered) address, telephone number and email (where relevant) of holder of premises licence</b><br><br>EI Group Plc<br>3 Monkspath Hall Road<br>Shirley |                                  |
| <b>Post town:</b><br><br>Solihull  | <b>Post Code:</b><br><br>B90 4SJ |
| <b>Telephone Number:</b>   |                                  |
| <b>Email</b><br><br>N/A  |                                  |

|   |
|---|
| <b>Registered number of holder for example company number or charity number (where applicable)</b><br><br>2562808 |
|---|

|   |                   |
|---|-------------------|
| <b>Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol</b><br><br>Jasmine Kaur Rama |                   |
| <b>Post town:</b>   | <b>Post Code:</b> |
| <b>Telephone Number:</b><br><br>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><br><br>SOL PE 106165  | <b>Issuing Authority</b><br><br>SOLIHULL METROPOLITAN BOROUGH COUNCIL |

*Dated 18/10/2019*

SHAID YASSER  
Senior Licensing Officer  
For Director of Regulation and Enforcement

## Annex 1 – Mandatory Conditions

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

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

The 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 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.

Where the number of children attending the entertainment exceeds 100 the licensee shall ensure the provisions of Section 12 of The Children and Young Persons Act 1933 are complied with.

This licence is granted subject to compliance with the conditions attached to the Public Entertainment Licence, previously issued in respect of these premises, as detailed in document reference number: PEL4.8 (copies of which are available upon request from the Licensing Section)

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

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

The licensee will implement a 30 minute "drinking up" time to allow appropriate dispersal of customers.

All regulated entertainment is permitted is to take place inside the premises only

No adult entertainment or services are permitted on the premises with the exception of 2 AWP machine and 1 cigarette machine.

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

The Licensee shall ensure -

There is a well-lit car park, exterior and drinking area of the premises.

There is a rota system is in place for regularly checking the toilets.

Burglar alarm installed with alarmed windows and doors.

Drug prevention measures are employed and signs displayed.

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

The Licensee shall ensure -

The premises will be limited to 150 persons.

The pub is equipped with emergency lighting, illuminated exit signs throughout.

Fire extinguishers are available at the designated positions throughout the building and an annual service contract is in place with West Yorkshire Fire Protection.

Health & Safety policy in place and adhered to.

A quarterly risk assessment carried out

An accident/incident book is in [place with basic first aid facilities.

All portable electrical appliances are serviced annually

There are current electrical and gas certificates in place.

Staff are trained in our disability policy and assistance is always available

The premise complies with the smoking charter.

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

The Licensee shall ensure -

When required, staff organise taxis to transport customers home. Customers are seen off the premises and encouraged to disperse at closing.

The pub has a lobbied entrance which reduces noise emission.

The publicly accessible windows havelocks fitted.

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

The Licensee shall ensure -

Unaccompanied children are not permitted on the premises at any time and children are not permitted on the premises after 19:00 and there is a separate children's room available.

**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 **112985-368/9** 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





