

# BIRMINGHAM CITY COUNCIL

## PUBLIC REPORT

<b>Report to:</b>	<b>Licensing Sub Committee A</b>
<b>Report of:</b>	<b>Director of Regulation and Enforcement</b>
<b>Date of Meeting:</b>	<b>Monday 14<sup>th</sup> August 2023</b>
<b>Subject:</b>	<b>Licensing Act 2003 Premises Licence – Summary Review</b>
<b>Premises:</b>	<b>The Ark Birmingham, 74 John Bright Street, Birmingham, B1 1BN</b>
<b>Ward affected:</b>	<b>Ladywood</b>
<b>Contact Officer:</b>	<b>David Kennedy, Principal Licensing Officer, <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 representation 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 18<sup>th</sup> July 2023 in respect of The Ark Birmingham, 74 John Bright Street, Birmingham, B1 1BN.

### 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 18<sup>th</sup> July 2023, Superintendent Munro, 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 Ark Indian Dining & Bar Limited in respect of The Ark Birmingham, 74 John Bright Street, Birmingham, B1 1BN.

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 A met on 20<sup>th</sup> July 2023 to consider whether to take any interim steps and resolved that the licence be suspended, and that Deepak Singh be removed as the Designated Premises Supervisor (DPS), 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 2<sup>nd</sup> August 2023.

A representation has been received from Birmingham City Council Licensing Enforcement as a responsible authority, which is attached at Appendix 3.

A copy of the current Premises Licence is attached at Appendix 4.

Site location plans are attached at Appendix 5.

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 20<sup>th</sup> July 2023, Appendix 2  
Copy of the representation from Birmingham City Council Licensing Enforcement, Appendix 3  
Current Premises Licence, Appendix 4  
Site location plans, Appendix 5

**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 20<sup>th</sup> July 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 - Superintendent James Munro,**

**(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: The Ark Birmingham .**

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

**74, John Bright Street, City Centre.**

Post Town: **Birmingham**

Post Code (if known): **B1 1BN.**

**2. Premises Licence details:**

Name of premise licence holder (if known):

**Ark Indian Dining and Bar Ltd.**

Number of premise licence (if known):

**5359.**

**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 Ark Birmingham is a licensed premises situated at 74, John Bright Street, Birmingham, B1 1BN. The premises license holder is Ark Indian Dining and Bar Ltd and the designated premises supervisor is Mr Deepak Singh.

The premises is licensed to sell alcohol for consumption on and off the premises between the hours of 1000 and 0100 between Sunday and Thursday and 1000 and 0300 on Fridays and Saturdays.

At 0230 hours Saturday 15<sup>th</sup> July 2023 the premises were open and conducting licensable activity.

At this time a number of persons have left the premises. These people have become involved in disorder and during this two persons have been forced to the ground where they have been attacked and suffered injuries consistent with woundings. Door staff have also joined in the disorder attacking people with queue cordon metal stantions and queue cordon ropes. Door staff have also come across a person who was unconscious in the road as a result of the incident who they have picked up and then thrown onto the pavement and left without any attempt to discover the persons condition or to provide care or first aid. Four persons have been arrested for being part of this disorder.

This matter is subject of two crime reports for wounding against section 18 The Offences Against The Persons Act 1861 which are serious crimes by virtue of the maximum sentence on conviction being life imprisonment. This is an ongoing enquiry which may lead to more reports of injuries and arrests.

West Midlands Police have serious concerns for the promotion of the licensing objectives at this premises.

West Midlands Police have no confidence in the management of the premises as door staff can be clearly seen arming themselves with items to use as weapons to attack persons with and patrons of the premises are involved in serious disorder outside the premises.

The lack of confidence in the management is compounded by the provision of completely inadequate care for a person that was injured and unconscious.

This is such a serious incident and breach of the licensing objectives that West Midlands Police would request that the premises license is suspended and the Designated Premises Supervisor is removed.

**Signature of applicant:**

**Date:** 18<sup>th</sup> July 2023.

**Rank/Capacity:** Superintendent

**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 Superintendent James Munro hereby certify that in my opinion the premises described below are associated with both serious crime and serious disorder.

**Premises: The Ark Birmingham.**

**Address: 74, John Bright Street, Birmingham, B1 1BN**

**Premise Licence Number: 5359**

**Premise Licence Holder: Ark Indian Dining and Bar Ltd**

**Designated Premise Supervisor: Mr Deepak Singh**

**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 trigger incident on 15<sup>th</sup> July 2023 2023, which involved a disorder involving numerous people outside the premises and members of door staff arming themselves with items they use as weapons, the inadequacy of measures followed by the operators on the night of the incident which include providing completely inadequate care for an injured person who was unconscious, 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.

In coming to my opinion, I have had regard to the facts of the incident and current investigation, the terms of section 53A of the Licensing Act 2003 and Chapter 12 ("Summary Reviews") of the Guidance issued under section 182 of the Licensing Act 2003 (December

Signed:



Dated: "



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

**THURSDAY 20 JULY 2023**

**THE ARK BIRMINGHAM, 74 JOHN BRIGHT STREET, BIRMINGHAM B1 1BN**

That having considered the application made and certificate issued by a Superintendent of West Midlands Police under section 53A of the Licensing Act 2003 for an expedited review of the premises licence held by Ark Indian Dining & Bar Limited, in respect of The Ark Birmingham, 74 John Bright Street, Birmingham B1 1BN, this Sub-Committee hereby determines:

- that the licence be suspended, and
- that Mr Deepak Singh be removed as the Designated Premises Supervisor

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 two interim steps are due to the concerns which were expressed by West Midlands Police in relation to matters pertaining to serious crime and/or serious disorder, which had come to light as outlined in the Superintendent's certificate and application.

The Sub-Committee determined that the cause of the serious crime and/or serious disorder originated from a style of management which had been incapable of upholding the licensing objectives. The style of management was the responsibility of Ark Indian Dining & Bar Limited, as licence holder for The Ark Birmingham premises.

Mr Deepak Singh, one of the company directors, was the person named on the licence as the designated premises supervisor. Mr Singh and another director of the licence holder company attended the meeting, represented by a solicitor.

The meeting was conducted in private session after the Sub-Committee considered an application made by West Midlands Police under regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005. The Police explained that to hear the evidence in public would undermine an ongoing criminal investigation. The meeting would also involve the playing of the CCTV evidence. The Police therefore asked for the Sub-Committee to go into private session for the whole meeting. The solicitor for the premises licence holder had no objection to this course.

The Sub-Committee agreed that the best course was to hear all of the evidence in private session. This was to ensure fairness to all parties, and to ensure that the licence holder was able to properly address the Police submissions without the need to avoid mentioning those parts of the evidence shown in private.



The meeting therefore went into private session and Members heard the submissions of West Midlands Police, namely that the certificate, which had been issued by a Superintendent under s53A(1)(b) of the Act, related to an allegation of serious crime and/or serious disorder which was said to have originated at the premises. It was the advice of the Police that a complete absence of management control had led to the incident.

The Police summarised the investigation thus far – exactly as detailed in the Report. It was the advice of the Police that interim steps were required in order to deal with the causes of the serious crime and/or serious disorder. A criminal investigation was under way. The CCTV was played to the Sub-Committee.

Overall, the Police had no confidence whatsoever in the premises' ability to prevent further serious crime and/or serious disorder. It was the Police's recommendation that the incident had been so serious, and the risk to the upholding of the licensing objectives so grave, that specific steps were required.

The Police recommended that the correct course was to suspend the licence and to remove the designated premises supervisor, pending the full Summary Review hearing, for the reasons given in the Superintendent's certificate and application. The Police noted in particular that there had been a distinct lack of cooperation shown by the premises' management during dealings with them in recent weeks.

The Sub-Committee then heard from the solicitor for the licence holder company, who addressed the Members together with the company directors. The licence holder had been appalled at the actions of the door staff and felt that they had acted completely at variance with the instructions they had been given; the door staff had been fully trained in their responsibilities, and also trained regarding the conditions of the licence, but had departed from their instructions.

They were under strict instructions to not leave the door, but instead to alert other staff members, who would come to assist. Despite this, a number of them did in fact leave the door to enter the nearby streets. Both company directors stated that they would not have expected the door staff to act in the manner seen on CCTV, because they had instructed the door staff never to do so.

During the training, the premises had instructed the door staff that the correct way to act was to defuse situations and to only use reasonable force, not excessive force, and if a situation could not be controlled, to contact the Police. The premises felt that door staff were there to protect the venue and the public, and were therefore under strict instructions not to leave the door.

The incident had broken out when no member of management was at the door. The designated premises supervisor had not been on duty; the other director was on an upstairs floor of the premises. The CCTV viewing facilities were in the office and therefore not being watched. Although a radio system was in use, at the time in question any alerts "got missed".

Whilst the CCTV showed the behaviour of the door staff, the solicitor asked the Sub-Committee to note that patrons had also played a significant role in the incident; this had included an attack on the door staff using objects as weapons. Moreover, the suggestion made by the Police that door staff had thrown one individual onto the pavement was not accepted; instead, the company director had himself moved the person onto the pavement, in order to ensure that the person was not in the road and at risk of further injury. The director had then ordered the

door staff to return to the door immediately. He had also overheard nearby persons stating that the Police were on their way; within a short time he had heard sirens approaching.

The licence holder had decided to no longer work with the security company which provided the door staff, feeling that they had shown that they did not follow protocols or the licence conditions. It was the licence holder's view that the incident had escalated when the door staff made the unilateral decision to leave the door, against all instructions. The licence holder intended to change the security company; the directors stated that they would accept the advice of the Police regarding suitable security providers.

The solicitor reminded the Sub-Committee that any interim steps imposed should be only those necessary to prevent any further serious crime and/or serious disorder. He assured the Sub-Committee that both directors understood that the incident was of the utmost seriousness, and they did not oppose the Police's suggestion that the nightclub-style part of the operation, on the second floor, should be suspended. The management accepted that the style of music offered on Friday nights had perhaps started to attract a problematic clientele; Saturday nights were trading without difficulties as the style of music on Saturdays was different.

However, it was the premises' view that the restaurant part of the operation, based on the first floor, which had a very good reputation and indeed was considered "the fourth best restaurant in Birmingham" locally, should not be part of any suspension. It operated to 23.00 hours with no regulated entertainment, only background music, and had been trading safely with no problems whatsoever. All at the premises were confident that the restaurant area could be completely separated, such that the only trading would be as a restaurant (with no nightclub-style offer on the other floor), and were confident that this would prevent any recurrence of serious crime and/or serious disorder.

Regarding the management team, the solicitor assured the Sub-Committee that the management was not the problem; instead, the issue was that the door staff had acted outside their instructions. The solicitor also remarked that it was not correct that the Police could have no confidence in the premises, reminding the Sub-Committee that one of the directors had personally moved an individual to safety when he discovered him lying in the road.

Regarding the designated premises supervisor, the solicitor said that whilst it was accepted that there had been serious incident on the night in question, it was not accepted that there had been a management failure, as the premises considered that it could demonstrate compliance.

In summing up, the Police stated that whilst the door staff had culpability, they acted on the instructions of management; it was the premises who set the code for dress, admission and so on. Whilst one director had said that he was appalled by the incident, he had in fact been there on the night. No staff member had called the Police; this was left to passers-by.

In the event that the Sub-Committee were to decide that the restaurant should continue to operate, the Police asked that the licence conditions be modified to try to guard against risk. In particular, the Police observed that whilst a director had stated that he would be happy to work with the Police, that had not been the case in recent times.

The solicitor for the licence holder accepted the Police's proposed conditions. He urged the Sub-Committee to permit trading as a restaurant, and urged the Members not to suspend the designated premises supervisor, reminding them that only those steps which were strictly necessary should be imposed.

Having heard all of the evidence, the Members were mindful of the reminder from the solicitor for the licence holder, who had urged them to only impose those steps which were necessary to guard against the risks of further serious crime and/or serious disorder. However, the starting point was that the Members were not confident that the company understood its responsibilities as licence holder, and were definitely not satisfied that there was proper management control of the premises.

The Sub-Committee noted that some of the existing conditions on the licence would have guarded against the risk of precisely this type of incident if they had been observed on the night in question – in particular, the requirement that the licence holder or nominated member of staff should monitor the external areas from 23.00 hours. Whilst one director had been on duty, he was upstairs on the second floor, and not following the requirements of that licence condition.

The Sub-Committee agreed with the Police that it was not possible to have any trust in the management of the operation, and in particular agreed that the incident would not have happened at all if the premises had been observing the conditions of the licence.

The Members looked askance at the premises upon hearing the Police's remarks that they had recently noted something of a lack of cooperation from those at The Ark Birmingham. Whilst the Police had said during the meeting that it might be possible for the restaurant to trade provided a suite of additional conditions was imposed, the Members were not prepared to take any risks regarding serious crime and/or serious disorder, noting in particular that nobody from the premises had telephoned the Police or called an ambulance.

The Members also felt that it was important to send a clear and unambiguous message to the premises that any failure to cooperate with Police pending the full Review hearing, particularly following a very serious incident in which both patrons and staff had involved themselves, and which had occurred on the streets in the centre of Birmingham, was completely unacceptable.

In deliberating, the Sub-Committee determined that there had been an allegation of serious crime and/or serious disorder, which was being investigated by Police. It was abundantly clear that the operation was not being run in accordance with the licensing objectives. The Members also observed that had the licence conditions been followed properly, in particular the requirement for a senior person to monitor the external area after 23.00 hours, the incident might not have happened. All in all, the management style at The Ark Birmingham was not at all the standard expected of premises licence holders in Birmingham.

Whilst there had been discussion of allowing the restaurant part of the operation to continue, the Sub-Committee was not satisfied that those at the premises could be trusted either to uphold additional conditions, or to cooperate with the Police properly. The correct way forward was to suspend the licence and remove the designated premises supervisor, pending the full Review hearing.



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 and/or serious disorder.

The Sub-Committee also determined that the removal of the designated premises supervisor, as recommended by the Police, was also a very important safety feature, given that it was this individual who was responsible for the day to day running of the premises. The Members considered that he had fallen far short of the standard expected; this was of particular relevance when the Sub-Committee was considering whether it could impose alternative interim steps which would permit operation as a restaurant.

The Members felt unable to permit operation to continue, even on a "restaurant only" basis, due to the management failings which had led to an allegation of serious crime and/or serious disorder; these failings were a significant risk to the upholding of the licensing objectives in Birmingham. Public safety was of paramount importance.

In reaching this decision, the Sub-Committee has given due consideration to the application made and certificate issued by a Superintendent of West Midlands Police, 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 licence holder via its solicitor and two directors.

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.

**From:** Shaïd Ali  
**Sent:** 02 August 2023 17:59  
**To:** Licensing  
**Cc:** Bhapinder Nandhra  
**Subject:** Re: Representation, The Ark, 74 John Bright Street, Birmingham B1 1BN

I am aware that West Midlands Police (WMP) have called for a review of the Premises Licence number 5359 issued to Ark Indian Dining and Bar Limited in respect of the Premises known as The Ark, 74 John Bright Street, Birmingham B1 1BN. WMP have stated that they are of the opinion the premises is associated with serious crime and disorder following an incident outside the premises on Saturday 15<sup>th</sup> July 2023 which led two Section 18 woundings. All the information I have received from the WMP in relation to this incident has been submitted to the Committee and therefore the committee will be aware of their reasons for calling for a review of the licence which I fully support and which I do not feel I need to repeat.

The application for the Premises Licence was submitted on 23.4.2021 and was granted on 14.7.2021. The application stated that the premises was to operate as a Restaurant and Bar, but it is clear that whilst a part of the premises operated as a restaurant on the first floor the second floor appears to have been operated as a nightclub and in my opinion it is this part of the premises which has led to a number of complaints about noise and antisocial behaviour and which most likely contributed to this incident.

The reasons given by WMP for calling for a review of the Premises Licence are in my opinion fully justified as there was no call to the emergency services made by the managements or staff of the premises and it appears the door staff have tried to resolve the incident themselves by joining in and being part of the violent incident. The Police have stated there has recently also been a lack of cooperation by the management. This highlights a serious concern that the management of the premises and those responsible for the day to day running of the premises have little regard for the Prevention of Crime and Disorder and for the safety of the public and are not able to operate the premises in accordance with the conditions of the licence.

Please accept this as my representation on behalf Licensing Enforcement in support of the Review of the Premises Licence submitted by WMP.

Regards

Shaïd Ali - Licensing Enforcement Officer

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

Premises Licence Number:

5359 / 1

**Part 1 - Premises details:**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b> The Ark Birmingham 74 John Bright Street	
<b>Post town:</b> Birmingham	<b>Post Code:</b> B1 1BN
<b>Telephone Number:</b>	

<b>Where the licence is time limited the dates</b> N/A
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<b>Licensable activities authorised by the licence</b>	
B	Films
E	Live Music
F	Recorded Music
H	Anything of a similar description to that falling within (e), (f), or (g)
L	Late night refreshment
M3	Sale of alcohol by retail (both on & off the premises)

<b>The times the licence authorises the carrying out of licensable activities</b>				
Sunday - Thursday	10:00	-	01:00	B ,E ,F ,H ,M3
	23:00	-	01:00	L
Friday - Saturday	10:00	-	03:00	B ,E ,F ,H ,M3
	23:00	-	03:00	L

<b>The opening hours of the premises</b>			
Sunday - Thursday	10:00	-	01:30
Friday - Saturday	10:00	-	03:30

<b>Where the licence authorises supplies of alcohol whether these are on and/or off supplies</b> 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> Ark Indian Dining & Bar Limited 74 - 86 John Bright Street	
<b>Post town:</b> Birmingham	<b>Post Code:</b> B1 1BN
<b>Telephone Number:</b>	
<b>Email</b>	

<b>Registered number of holder for example company number or charity number (where applicable)</b> 12808215
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<b>Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol</b> Mr Deepak Singh	
<b>Post town:</b>	<b>Post Code:</b>
<b>Telephone Number:</b>	

<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> 20/000244/LAPER	<b>Issuing Authority</b> SANDWELL METROPOLITAN BOROUGH COUNCIL

*Dated 23/06/2021*

Bhapinder Nandhra  
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.

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

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

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

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

The Premises Licence holder shall ensure all staff receive adequate training on a regular basis, relating to the four licensing objectives, general licensing regulations/Conditions including Fire regulations. A record of the training will be kept by the management.

Regulated Entertainment shall take place indoors only.

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

The Premises Licence holder shall ensure CCTV system to be installed fit for the purpose and satisfaction of West Midlands Police and images shall be retained for at least 31 Days and shall be made available upon request to officers of the Responsible Authorities.

The Premises Licence holder shall ensure staff will be given ongoing training including identification of anti-social or unusual behaviour.

The Premises Licence holder shall ensure an incident register will be kept on the premises and made available at all times to West Midlands Police.

SIA Registered (Qualified) door supervisors shall be employed to control persons queuing to enter and exit the venue, from 11pm onwards whilst regulated entertainment at any time involving a DJ is taking place.

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

The Premises Licence holder shall ensure adequate lighting will be provided in all public areas and outside the premises.

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

The disposal of empties and bottles will not be done after 23:00hrs or before 07:00hrs.

The Premises Licence holder shall ensure notices will be posted asking patrons to leave quietly.

The premises licence holder shall ensure that a written agreement is made with a reputable taxi company/ companies requiring that when taxis pick up and drop off customers from the licensed premise's, that noise from these vehicles does not cause a nuisance to local residents.

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

The balcony area on the first floor shall only be used by a maximum of 5 persons at any one time after 11pm for smoking.

There shall be no meals served on this balcony area after 11pm.

All doors shall remain closed on the first floor leading to the balcony whilst regulated entertainment takes place.

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

No enforceable conditions identified from operating schedule.

## **Annex 3 – Conditions attached after hearing by licensing authority**

### **3a) General committee conditions**

On 14 June 2021, Licensing Sub Committee A resolved to GRANT the licence subject to the conditions below:

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

The Premises Licence holder shall ensure all Security Staff (when on duty working at the premises) will be SIA Registered and will be required to sign a register with details of their name and badge number at the start and end of their shifts. The register will be kept at the premises at all times and will be produced upon request to any authorised officer

### **3c) Committee conditions to promote public safety**

N/A

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

The premises shall have an approved documented dispersal policy (approval needed in writing from West Midlands Police Licensing Department and Birmingham City Council Environmental Health department), which shall be implemented for dispersal on any day/night when Regulated Entertainment has taken place.

To avoid nuisance being caused to neighbours the premises licence holder, or other nominated person/staff, shall monitor the external areas of the Premises after 23:00 hours. If necessary, they shall remind customers to be respectful of neighbours and shall limit the number of customers going outside to use the smoking area to no more than 5 persons at any time and take appropriate steps to avoid customers who use the frontage of the premises causing a nuisance.

All external doors and windows shall be kept closed after 20.00 whenever there is regulated entertainment except as necessary for safe and effective access and egress.

No drinks shall be removed from the premises other than in sealed containers.

All noise associated with live music or amplified music, speech or sound outside the licensed hours for regulated entertainment shall be background and shall be inaudible outside the building.

No waste or recyclable material, including bottles, shall be moved, removed or placed in areas outside the premises building between the hours of 22.00 and 08.00.

There shall be no speakers used for amplified music, speech or sound outside the building.

The Premises Licence Holder shall ensure notices are displayed at all entrances and exits of the premises advising customers to have respect for the nearby residents and keep noise levels to a minimum as they depart.

There shall be no first entry or admission to the premises after 00.00 (midnight).

There shall be no regulated entertainment on the first floor between 23.00 and 10.00 the following day.

The first floor balcony shall not be used for any purpose between 23.00 and 10.00 the following day.

The second floor sound system shall incorporate a distributed speaker system facing inwards to the entertainment area.

The premises licence holder shall supply a written noise risk assessment and noise management plan to Birmingham City Council Environmental Health Department for approval prior to any regulated entertainment taking place which addresses the specific noise impacts and controls relevant for the premises. 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, dispersal and customers. All operational controls and management actions required by the approved noise

management plan shall be instigated at all times.

An assessment of the building design and structure and a proposed scheme of noise insulation and attenuation for the licensed area on the second floor shall be produced by a suitably qualified and experienced acoustic specialist. This scheme shall be submitted in writing to the Environmental Protection Unit of Birmingham City Council and no licensable activity shall take place until the mitigation measures that have been approved in writing by the Environmental Protection Unit of Birmingham City Council have been implemented. The noise mitigation measures shall be thereafter maintained.

A Noise limiting Device (NLD's) shall be installed to the sound system on the second floor entertainment area and this shall be of a type approved by the Birmingham City Council Environmental Health Department and shall be fitted to the amplification system and set at a level approved by the Birmingham City Council Environmental Health Department, to ensure the volume of music is pre-set so as not to cause a noise nuisance to the occupiers of nearby buildings. The installation of the NLD shall be notified to the Environmental Protection Unit at least 14 days before its' initial operation and shall fulfil the following criteria:

- a) The device shall be fitted in an approved position by a competent person and once fitted shall not be moved from the approved position unless prior approval is given.
- b) The device shall be capable of cutting off the mains power to the amplification system if the volume exceeds the pre-set level determined by the Environmental Protection Unit or shall be capable of maintaining the volume of the music at the pre-set level determined by the Environmental Protection Unit and shall not restore power to the sound system until the NLD is reset by the licensee or their nominated person.
- c) The amplification system shall only be operated through the sockets/power points linked to and controlled by the NLD at all times.
- d) The NLD shall be maintained in full working order and at the approved pre-set volume whilst the amplification system is operational.
- e) Any damage or malfunction to the NLD shall be reported to the Environmental Protection Unit as soon as possible and within 24 working hours of the damage occurring or malfunction being noted. The NLD shall not be used in this damaged or malfunctioning state until approval has been given by the Environmental Protection Unit.

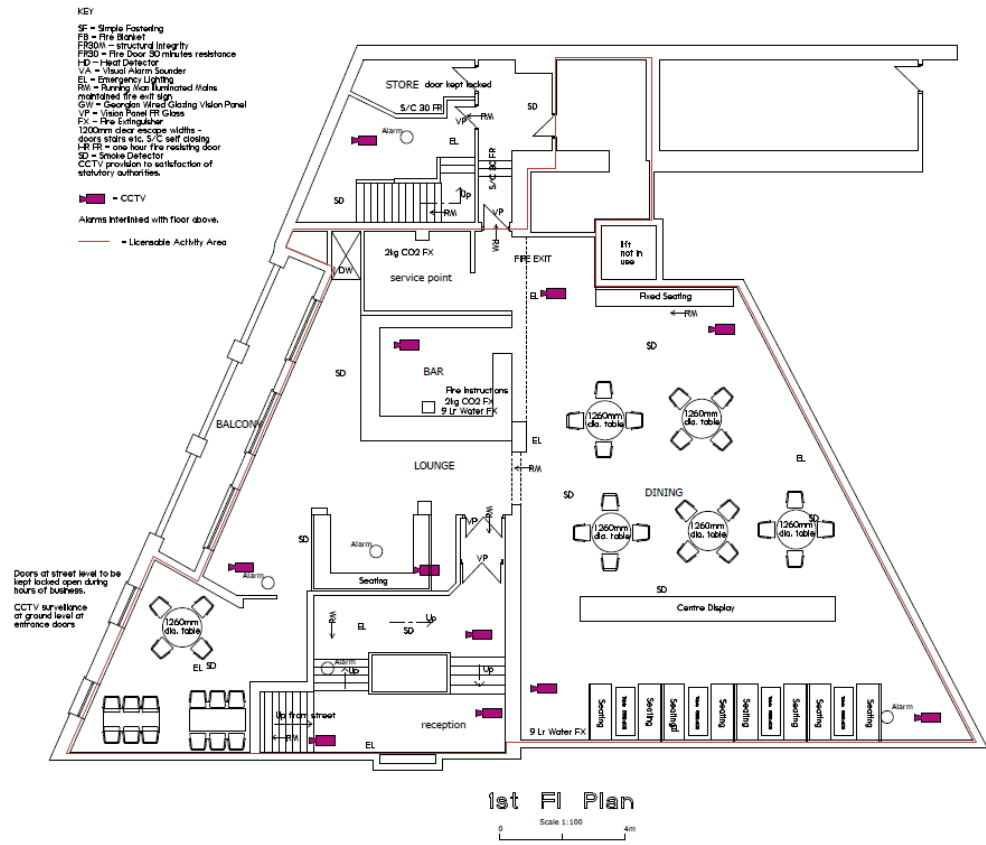
### **3e) Committee conditions to promote the protection of children from harm**

The premises will adopt the 'Challenge 25' or similar policy as proof of age scheme to be in operation during licensed hours. Any refused sales of alcohol shall be recorded either electronically or in suitable book which will state the date, product, time, the name of the person or description, any observations and the name of the member of staff refusing the sale. The record of refused sales will be kept at the premises at all times and produced upon request to any authorised officer.



# Annex 4 – Plans

A3



## FIRE SAFETY STANDARDS

Doors and partitions required to be fire resisting one to be in accordance with British Standard 476, 1972 as amended.

Fire resisting doors required to resist the passage of smoke at ambient temperature conditions should, unless tested in accordance with BS476, section 3(1), 1982 be fitted with a smoke seal and intumescent strip plus a positive self closing device.

The fire alarm system where installed is to comply with the British Standard 5859, part 1-2002. The attention of the Design/Installing Engineer should be drawn to paragraph 3.1 (consultation and records) of British Standard 5859, Part 1, 2002. All magnetic and magnetic door hold open devices will be connected to the fire alarm system so that on any activation of the fire alarm the devices will fall safe.

The emergency lighting installation is to comply with British Standard 5266, part 1, 1988. The attention of the Design/Installing Engineer should be drawn to paragraph 3.1 (consultation and records) of British Standard 5266, part 1, 1988 as amended.

Certificate of installation will be required.

Door panic furniture must comply with British Standard EN 1125 panic exit devices operated by a horizontal bar. And be marked above with a sign saying 'Push Bar to Open'.

Fire Safety related signs and notices are to conform to British Standard 5499, Part 1, 1990.

Illuminated 'EXIT' signs are to conform to British Standard 2560.

Fire fighting equipment is to comply with British Standard EN, 3-7.

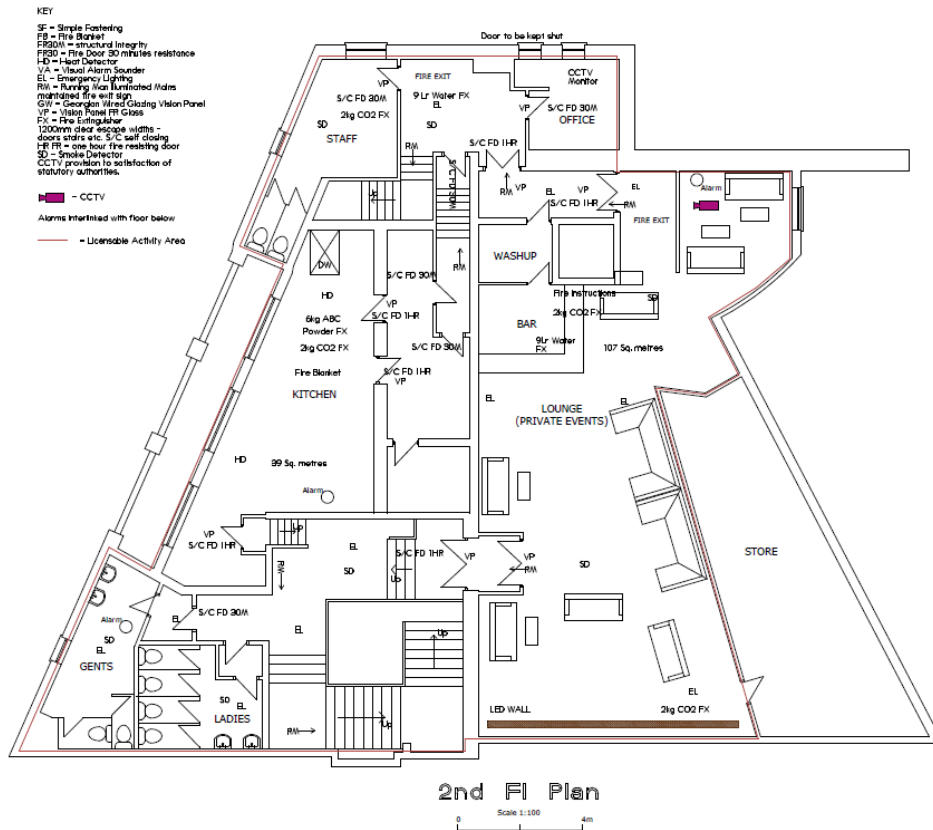
Fire resisting glazing must comply with a guide to best practice in the specification and use of fire resistant glazing systems. Glass and Glazing Federation 2005.

Unprotected seating furniture must satisfy as a minimum standard: Ignition source (1) cigarette test and Crib Ignition Source 5 as specified in British Standard 6852, 1980. Methods of test for Assessment of the ignitability of Upholstered Seating by Smouldering with Flaming Ignition Sources. In order to secure compliance with the above standards the fabric submitted for test has been tested beforehand with a fire retardant product. The testing laboratory must be instructed to subject the samples as treated to a water soak test. In accordance with British Standard 6852, 1980, paragraph 3, before the BS6852 tests are carried out. A copy of the laboratory test report from an accredited testing laboratory identifying compliance of the furnishings composite with the above mentioned British Standards must be forwarded to this authority before installation and confirmation that the furnishings specified in this certificate have been installed in the premises.

A fire risk assessment in accordance with Regulatory Reform (Fire Safety) Order 2005 will be completed prior to the Premises opening to the public.

<b>H D Kalsi</b> The Design House Email: david.kalsi@btinternet.co.uk		Client: Mr Ajay Kalsi 74 John Bright Street, Birmingham, B1 1BN	
Site: The Ark, 74 John Bright Street, Birmingham, B1 1BN		Drawing Title: Proposed First Floor Plan	
Drawing No: 15/21 (0001)		Date: 20-04-21	
Scale: 1:100		Revision: P1	
		Drawn: DK	

A3



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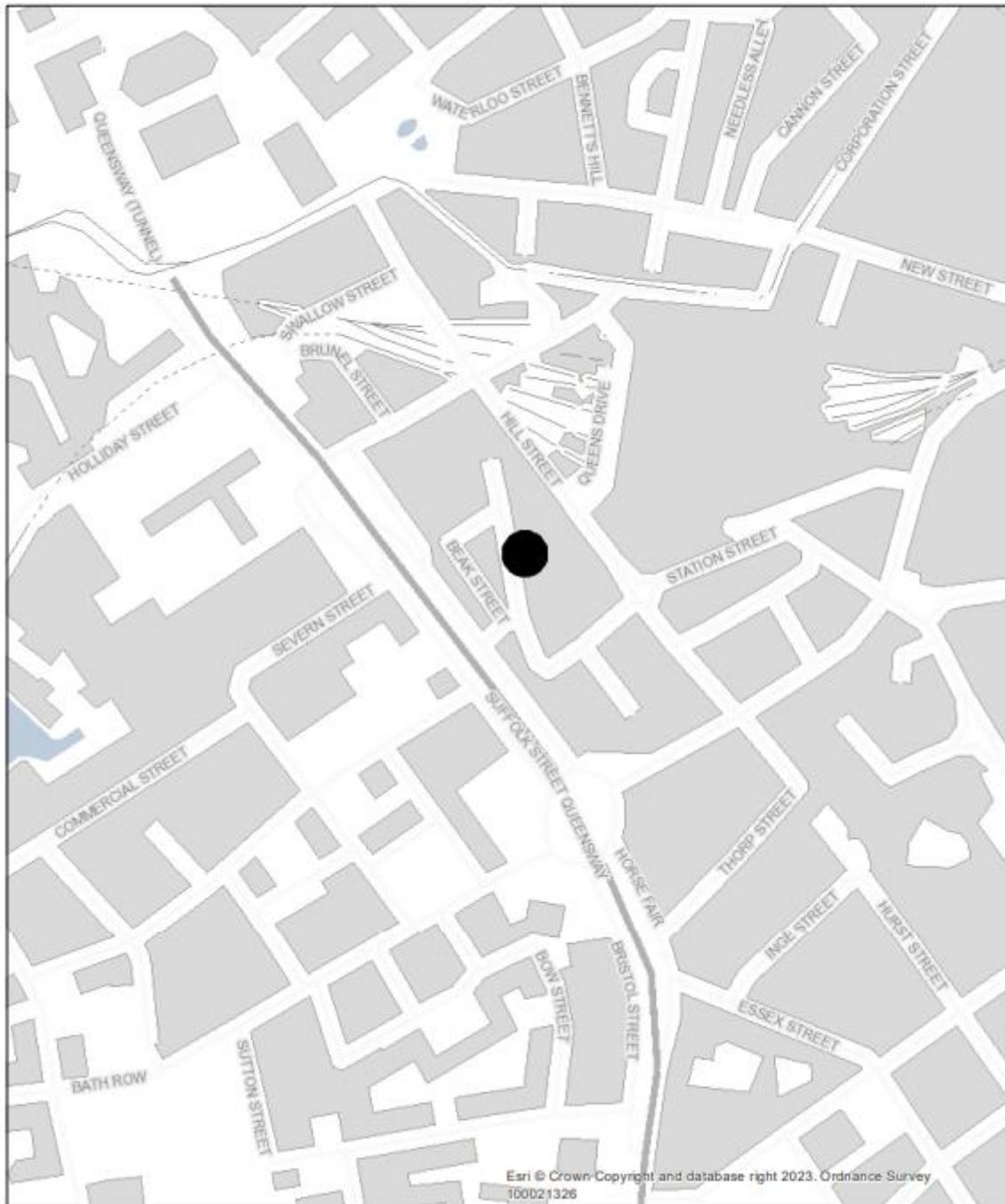
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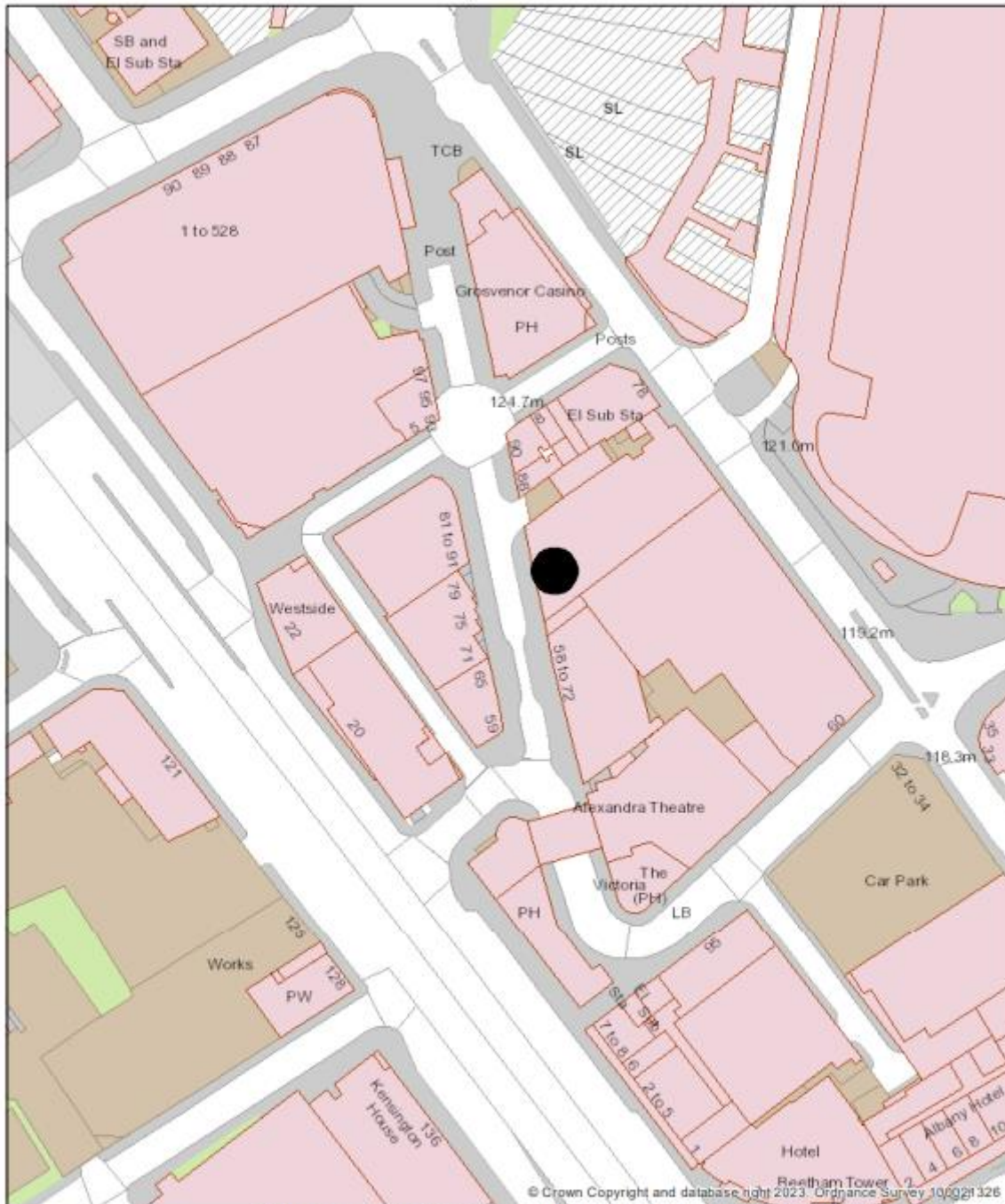
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<b>H D Kalsi</b> The Design House Email: david.kalsi@btinternet.co.uk		Client: Mr Ajay Kalsi 74 John Bright Street, Birmingham, B1 1BN	
Site: The Ark, 74 John Bright Street, Birmingham, B1 1BN		Drawing Title: Proposed Second Floor Plan	
Drawing No: 15/21 (0002)		Date: 20-04-21	
Scale: 1:100		Revision: P1	
		Drawn: DK	





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