

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

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C

WEDNESDAY, 08 FEBRUARY 2017 AT 09:30 HOURS
IN COMMITTEE ROOM 1, COUNCIL HOUSE, VICTORIA SQUARE,
BIRMINGHAM, B1 1BB

A G E N D A

1 NOTICE OF RECORDING

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

2 APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3 - 32

3 LICENSING ACT 2003 PREMISES LICENCE – REVIEW MOSELEY WINES, 44 ST MARYS ROW, BIRMINGHAM, B13 8JG

Report of the Acting Director of Regulation and Enforcement.
N.B. Application scheduled to be heard at 09:30am Wednesday 8 February 2017.

33 - 60

4 LICENSING ACT 2003 PREMISES LICENCE – REVIEW WOODBRIDGE NEWS, 38 WOODBRIDGE ROAD, MOSELEY, BIRMINGHAM, B13 8EJ

Report of the Acting Director of Regulation and Enforcement.
N.B Application scheduled to be heard at 11:00am on Wednesday 8 February 2017.

5 OTHER URGENT BUSINESS

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

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Wednesday 8th February 2017
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	Moseley Wines, 44 St Marys Row, Birmingham, B13 8JG
Ward affected:	Moseley and Kings Heath
Contact Officer:	David Kennedy, Principal Licensing Officer, 0121 303 9896, licensing@birmingham.gov.uk

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

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

3. Brief Summary of Report:
Review application received on 19 th December 2016 from the Chief Inspector of Weights and Measures in respect of Moseley Wines, 44 St Marys Row, Birmingham, B13 8JG. Representations have been received from 3 responsible authorities.

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:

<p>The Chief Officer of Weights and Measures applied on 19th December 2016 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for Moseley Wines, 44 St Marys Row, Birmingham, B13 8JG.</p> <p>Representations have been received from West Midlands Police, Birmingham City Council Licensing Enforcement and Public Health, as responsible authorities. See Appendices 1 -3.</p> <p>Review application is attached, see Appendix 4.</p> <p>The Premises Licence is attached at Appendix 5.</p> <p>Site location plans are attached at Appendix 6.</p> <p>When carrying out its licensing functions, a licensing authority must have regard to Birmingham City Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under s182 of the Licensing Act 2003.</p> <p>The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -</p> <ul style="list-style-type: none">a. The prevention of crime and disorder;b. Public safety;c. The prevention of public nuisance; andd. The protection of children from harm.

6. List of background documents:

<p>Copy of the representations as detailed in Appendices 1 – 3</p> <p>Review Application Form, Appendix 4</p> <p>Copy of Premises Licence, Appendix 5</p> <p>Site location plans, Appendix 6</p>
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7. Options available

<p>Modify the conditions of Licence</p> <p>Exclude a Licensable activity from the scope of the Licence</p> <p>Remove the Designated Premises Supervisor</p> <p>Suspend the Licence for a period not exceeding 3 months</p> <p>Revoke the Licence</p> <p>No Action</p> <p>Where the authority takes a step to modify conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.</p>

Appendix 1

Entered

From: Christopher Jones
Sent: 13 January 2017 09:50
To: Licensing
Cc: Paul Ellson
Subject: Moseley Wine - representation

Good Morning,

West Midlands Police support the representation made by Birmingham Trading Standards regarding Moseley Wines, 44 St. Mary's Row, Moseley – premises licence number 4518. The representation is supported under the Prevention of Crime & Disorder and Public Safety Licensing Objectives.

There was a substantial amount of suspect alcohol found at the premises, which later was confirmed as illicit/non duty paid and should not have been on sale in this country.

More often than not the trade in this sort of illicit alcohol is made by cash payments and does not do through 'the books' and no tax is paid.

This trade tends to support organised crime activities and by the premises purchasing such alcohol they are helping to fund further criminal activity.

There is no way that when the premises purchased this alcohol they could have be aware of the origin of the product and they wouldn't have known if it was fit for human consumption, seemingly only being worried about maximising profits with total disregard for public safety.

The fact that the DPS who is also the premises licence holder has not been in contact with Trading Standards. The fact that illicit alcohol was found in his other premises in Moseley, on the same day, all indicates that Mr Zaman has a total disregard for the licensing objectives, public safety and points to a sustained pattern of behaviour with the only concern being maximising his personal gain.

Regards

Chris Jones on behalf of West Midlands Police.

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Appendix 2

Birmingham City Council Licensing Service

Representation as a responsible authority in respect of the premises licence number 4518/1 granted under the Licensing Act 2003 in respect of premises known as:

- Moseley Wines, 44 St Marys Row, Moseley, Birmingham, B13 8JG

Introduction

The current premises licence holder - Mr Omer Zaman

Mr Omer Zaman is also the nominated designated premises supervisor in respect of the premises licence.

The Premises licence granted to Mr Zaman authorises the following licensable activities:-

M2 - Sale of alcohol by retail (off the premises)

And permits this licensable activity to take place:-

Monday – Sunday 11:00 - 22:00 hours

Conditions applied to the premises licence

In addition to the mandatory conditions contained within the Act the premises licence has the following conditions were applied to it:-

2a) General conditions consistent with the operating schedule

All members of staff (with the exception of personal licence holders) will receive training regarding the:-

- four licensing principles contained in the Licensing Act 2003;
- responsible retailing of alcohol, and law regarding sales of alcohol;
- protection of children from harm and this must include how to competently check customers' identification where necessary;
- permitted hours during which licensable activities can take place, and the conditions attached to the premises licence.

Staff training records detailing the training provided must be maintained for each members of staff and the training records must sign and date by the member of staff to confirm they have received and understood the training provided.

The staff training records must be kept at the premises and made available to any Responsible Authority upon request.

All spirits exposed for sale will be displayed behind the counter and supervised at all times.

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

The premises licence holder shall ensure that single cans, bottles, cartons of any alcoholic drink over 5.5% ABV, with the exception of wine and spirits shall not be sold at the premises.

A refusal register shall be maintained and kept at the premises and shall be signed off weekly by the DPS.

A CCTV system shall be installed at the premises to the satisfaction of West Midlands Police.

The CCTV system will be maintained and operational at the premises at all time when the premises are open to the public.

The images recorded by the CCTV system shall be retained in unedited form for a period of not less than 28 days and must be downloaded and made available to any Responsible Authority upon request.

The front entrance door must be covered by a CCTV camera to record a frontal identification of every person entering the premises.

An external CCTV camera will be installed to cover the area immediately outside the entrance into the premises.

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

A notice must be prominently displayed in the premises requesting that customers respect the needs of local residents and other businesses in the vicinity and to leave the premises quietly.

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

The premises licence holder will implement and operate a Challenge 25 age verification policy to prevent the sale or supply of alcohol to persons under 18 years of age. No ID No Sale

The premises licence holder will have a written age verification policy – Challenge 25.

A copy of the age verification policy must be signed and dated by all members of staff to confirm they have read and understand the policy in operation. The signed copy of the policy must be maintained at the premises and available for inspection by any Responsible Authority on request.

Notices or /posters will be displayed at the premises and clearly visible to customers informing them that a Challenge 25 age verification policy is in operation at the premises.

The premises licence holder will maintain a refusals register (or refusal button on EPOS – Electronic Point of Sale) on the premises and ensure it is completed whenever a sale is refused to a person who cannot prove they are over the age of 18.

The refusal register or record of till recorded refusals must be made available for inspection to any Responsible Authority on request.

Background Information

On the 18th August 2016 a routine compliance inspection was conducted at the premises. Mr Zaman was not present at the premises. During the inspection a number of issues were identified in breach of conditions attached to the premises licence. The matters identified were recorded on Traders Notices 21301 & 21302 these being:-

1. No staff training records produced or available for inspection in accordance with condition 2A ;
2. No refusal register being maintained, a refusal register provided by the officer during the inspection;
3. No CCTV system installed, the officer was advised the system had been ordered;
4. No notices being displayed requesting customers leave the premises quietly;
5. No evidence of a Challenge 25 age verification policy in operation, poster and draft age verification policy provided by the officer during the inspection.

On 24th August 2016 a further joint inspection was carried in conjunction with West Midlands Police Licensing Officer. Mr Omar was present during this inspection. Some matters previously identified had still not been addressed to the satisfaction of officers. Traders notice 21311 was issued and matters identified were:-

1. CCTV system had still not been installed, Police Licensing Officer advised Mr Omar he had 7 days to comply with the conditions to the premises licence in respect of CCTV provisions.
2. Some staff training records were produced but officers did not consider the records produced adequately evidence compliance with conditions attached to the premises licence.

During the inspection the Police Licensing Officer had concerns regarding some bottles of whisky on display behind the counter. He contacted a Trading Standards Officer and requested his attendance at the premises. The Trading Standards Officer attended as requested and identified a number of suspect bottles of spirits on display behind the counter. The suspect bottles were seized and removed from the premises for further investigation.

Licensing Act 2003 - Section 136 Un-authorised licensable activities

(1) A person commits an offence if—

- (a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or
- (b) he knowingly allows a licensable activity to be so carried on.

Licensing Act 2003 - Section 144 Keeping of smuggled goods

(1) A person to whom subsection (2) applies commits an offence if he knowingly keeps or allows to be kept, on any relevant premises, any goods which have been imported without payment of duty or which have otherwise been unlawfully imported.

2) This subsection applies—

- (a) to any person who works at the premises in a capacity, whether paid or unpaid, which gives him authority to prevent the keeping of the goods on the premises,
- (b) in the case of licensed premises, to—
 - (i) the holder of a premises licence in respect of the premises, and
 - (ii) the designated premises supervisor (if any) under such a licence,

Guidance issued under section 182 of the Licensing Act 2003
Reviews arising in connection with crime states at points:-

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Licensing Enforcement Team Recommendations to the Licensing Committee

As a Licensing Authority Birmingham City Council must carry out its licensing functions with a view to promoting the licensing objectives contained in the Act.

The Act is clearly intended to prevent crime and disorder in relation to premises, as well as deter and prevent unscrupulous persons from operating illegally under the authorisation of a premises licence.

Selling smuggled and counterfeit goods is not a victimless crime but one that affect society as a whole. Persons involved in smuggling, or the sale of smuggled and illicit alcohol are actively:-

- Supporting organised crime;
- Breaking the law;
- Putting the safety of the public at risk as traders cannot know if the good they are selling are counterfeit products that could harm, or cause serious risk to the health of the consumers; and
- Causing huge losses to the UK's tax revenue.

As a Licensing Authority Birmingham City Council must be seen to take decisive action to deter such criminal activities and ensure that no-one is permitted to profit by operating illegally.

Any trader knowingly purchasing and selling illicit alcohol is acting illegally, putting the safety of customers at risk and seriously undermining the licensing objectives relating to the:-

- Prevention of Crime and Disorder;
- Public Safety;

Given that Mr Zaman holds two premises licences and illicit alcohol was identified at both premises on the same day and the Licensing Enforcement Team recommends the Licensing Sub Committee consider revocation of the premises licence granted to him in respect of Moseley Wines.

Appendix 3



Birmingham Public Health

People Directorate

Licence Review Reference Information

Licence Number: 4518

Review Applicant Number: 8395814

Date: 16/01/2017

This is a response document from Birmingham Public Health in its capacity as a Responsible Authority (Police Reform and Social Responsibility Act 2011). This document supports the application for a review of a premises licence or club premises certificate under the Licensing Act 2003.

Wherever possible, supporting information contained within this document will be evidence-based and demonstrably refer to one or more of the licensing objectives. As there is currently no licensing objective directly relating to public health, the supporting information will be relevant to at least one of the four existing objectives, those objectives being:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

To promote good practice and a collaborative, multi-agency approach, we will also share this document with the other Responsible Authorities for licensing in Birmingham.

On behalf of Dr Adrian Phillips – Director of Public Health

Birmingham Public Health

Birmingham City Council

16/01/2017

Part 1:

Premises or club details

Name of premises	Moseley Wines
Postal address of premises	Moseley Wines, 44 St. Marys Row, Moseley
Post town	Birmingham
Post code	B13 8JG
Name of premises licence holder or club holding club premises certificate	Mr Omer Zaman
Number of premises licence or club premises certificate	4518

Part 2:

Responsible Authority applicant

Name and address	Paul Ellson/Donna Bensley/Trading Standards PO Box 16586, Birmingham B33 3EH
Telephone	
Email	
Reference	8395814

Part 3:

Overview of the *Grounds for Review*

Supply of counterfeit alcohol to the general public via general store

A disproportionately large amount of counterfeit alcohol in possession/stock

Relatively new licence holder

Licence holder for another premises/general store. More counterfeit alcohol was found here too.

2

Part 4:

Public Health response

Licensing Objective	Response
The prevention of crime and disorder	<p>The illicit trade in tobacco, alcohol and pharmaceuticals is often more attractive to organised criminals than, for example, drug trafficking, given that it is a low-risk and high-value activity. The high profit margins associated with illicit trade are used to fund other criminal activities – a fact not widely understood by the British public²</p> <p>Research suggest that Organised Crime Groups (OCGs) are involved at all stages of the supply chain, from the suppliers to those holding goods in duty suspense, hauliers, excise warehouses, lock-ups and cash-and-carry stores, corner shops and other outlets²</p> <p>The proceeds from OCGs can find their way into other activities including Child sexual exploitation cyber-crime, drugs, Illegal firearms, modern slavery and human trafficking, kidnap and extortion, money laundering³</p>
Public safety	<p>Commonly used substitutes for ethanol include chemicals used in cleaning fluids, nail polish remover and automobile screen wash, as well as methanol and isopropanol which are used in antifreeze and some fuels¹</p> <p>Drinking alcohol containing these chemicals can cause nausea and vomiting, abdominal pain, drowsiness and dizziness. It can also lead to kidney or liver problems and even coma. Methanol, a substance which can be used in fake vodka, may cause permanent blindness or death.¹</p>
The prevention of public nuisance	N/A
The protection of children from harm	<p>Counterfeit alcohol is often linked to OCG². Unfortunately, the proceeds of OCG can be linked to other illegal activities which can include Child Sexual Exploitation and human trafficking.</p> <p>In Birmingham, circa 20,000 children are affected by parental alcohol problems⁴</p>
<p>Summary: The retailer showed a complete disregard for Public Health by purchasing for re-sale to the general public items which he did not know the provenance, and could therefore have proven injurious to the general public – this cannot be tolerated. Counterfeit alcohol is often linked to OCGs – Birmingham has seen the direct impact of OCGs on more than one occasion – any action that supports OCG cannot be tolerated. We know that alcohol related issues⁵ in Birmingham cost in the region of £200 million per year⁵. We support the review of this licence as there is no place in Birmingham’s licensed alcohol community for people who choose to engage with and promote the supply chain of counterfeit alcohol, the sale of counterfeit alcohol, and therefore contribute to the primary and secondary impacts that can arise from this type of activity.</p>	

Part 4:

Supporting information/appendix

References

1. <https://www.drinkaware.co.uk/advice/staying-safe-while-drinking/the-dangers-of-fake-alcohol/>
2. <http://www.nationalcrimeagency.gov.uk/crime-threats/organised-crime-groups>
3. https://rusi.org/sites/default/files/201412_whr_on_tap.pdf
4. <http://birminghamcsp.org.uk/admin/resources/birmingham-alcohol-strategy-2012-2016-lo-res-210612-v2.pdf>
5. Statistics taken from the Birmingham Alcohol Strategy 2012 – 2016
 - 12,000 violent incidents (around half of all violent crimes);
 - 3,600 incidents of domestic violence (around a third) are linked to alcohol misuse;
 - Anti-social behaviour and fear of crime – 61% of the population perceive alcohol-related violence as worsening;
 - At peak times, up to 70% of all admissions to accident and emergency departments are related to alcohol;
 - Up to 170,000 working days are lost through alcohol-related absence;
 - In the region of 20,000 children are affected by parental alcohol problems;
 - Increased divorce – marriages where there are alcohol problems are twice as likely to end in divorce;
 - In 2009, half of all 11-15 year olds had already had an alcoholic drink;
 - Nationally in 2009/10, there were 1,057,000 alcohol-related admissions to hospital;
 - Parental alcohol misuse has been identified as a factor in over 500 child protection cases

Appendix 4

Head of Licensing
Licensing Section
PO Box 17013
Birmingham
B6 9ES

RECEIVED ALCOHOLIC BEVERAGES LICENSING SECTION DATE RECEIVED REF NO

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I Paul Ellison (on behalf of Donna Bensley Chief Inspector of Weights & Measures)
(Insert name of applicant)
apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details; Moseley Wines

Postal address of premises or, if none, ordnance survey map reference or description	
Moseley Wines 44 St. Marys Row Moseley	
Post town BIRMINGHAM	Post code (if known) B13 8JG

Name of premises licence holder or club holding club premises certificate (if known)
Mr Omer Zaman (Licence Holder & DPS)

Number of premises licence or club premises certificate (if known)
4518

Part 2 - Applicant details

I am

Please tick ✓ yes

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

☐

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

yes ✓

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

☐

8395814

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

Please tick ✓ yes

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

Surname

First names

I am 18 years old or over

Please tick ✓ yes

☐

Current postal
address if
different from
premises
address

N/A

Post town

Post Code

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address
N/A

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address; Paul Ellson, Trading Standards Enforcement Officer for and on behalf of Donna Bensley Chief Inspector of Weights & Measures Birmingham City Council Trading Standards PO Box 16586 Birmingham B33 3EH Our reference 8395814
Telephone number (if any)
E-mail address (optional)

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

- | | |
|---|-------------------------------------|
| | Please tick one or more boxes |
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

8395814

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

On the 24 August 2016 Birmingham Trading Standards Enforcement Officer Paul Ellson was contacted on the telephone by West Midlands Police Licencing Officer Chris Jones who was carrying out an inspection with a colleague from Birmingham City Councils Licensing Section of Moseley Wines, 44 St Mary's Row, Moseley, Birmingham B13 8JG. He stated that he was concerned about the authenticity of a number of bottles of High Commissioner Whisky (manufactured by Loch Lomond Group) and Glen's Vodka (manufactured by Loch Lomond Group). Officer Ellson subsequently attended the premise at 12.15pm.

Upon arrival Officer Ellson noticed two men standing behind the counter he identified himself and asked if the licence holder was on the site; one of men introduced themselves as Mr Omer Zaman and said he was the licence holder and the owner of the business.

Officer Ellson informed Mr Zaman that he had reasonable grounds to suspect that there was illicit/non-duty paid alcohol on the premises and therefore issued a Code B Inspection Notice under the Police and Criminal Evidence Act 1984. Other notices were issued as required by the Protection of Freedom Act 2012 and the Consumer Rights Act 2015.

Mr Zaman duly signed these and was given a copy. He gave his address and his date of birth as

During the course of this inspection Officer Ellson found 6 bottles of High Commissioner Whisky on the shelving behind the counter. These bottles had the classic signs of an illicit/non-duty paid product in that the front label of the bottle was labelled "Blended Scotch Whisky" but the rear label had "Old Scotch Whisky" on it. There were also 7 bottles of Glens Vodka which had poor quality rear labels on again is classic signs of an illicit/non-duty paid product.

However it was also discovered that there were two boxes of illicit product secreted under the counter. One box contained 4 bottles of Glen's Vodka (1 litre). The second box contained 6 bottles of High Commissioner Whisky. Again both sets of bottles displayed classic signs of an illicit/non-duty product. A total of 23 bottles of suspected illicit/non-duty paid items were removed from the premises. A Traders Notice for the products was issued to Mr Zaman as a receipt which he duly signed. There was no other illicit/non-duty items found on the premises at that time.

Subsequently a sample of the seized products were sent to Loch Lomond Group for them to comment on the authenticity of the products.

It was subsequently confirmed on 30 September 2016 by the Governance Manager for Loch Lomond; Euan Birrell, that all the High Commissioner Whisky and the Glen's Vodka had counterfeit rear labels applied. These incorporated a fake UK Duty Stamp.

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

Though only 23 bottles of illicit alcohol of this type (i.e. non-duty paid and counterfeit back labels) were found it was a considerable amount of stock in what was a small shop so actually represented a larger amount of their available supply.

All of the bottles of alcohol were found to have counterfeit UK duty stamped labels applied to the back of the bottles. This implies to any potential customer that they can be legally sold in the UK. However this is not the case as the bottles were originally intended for export and as such are not legal for sale in this country. They cannot be purchased by any legal means in the UK and can only have been supplied illegally.

The products were originally intended to be sold abroad as no UK duty has been paid on them and they have been diverted into this country by some illicit means, generally through smuggling routes if not by other illegal means. Much of this is done by organised criminal gangs who pay no tax on the products and undermine legitimate trade in the process.

More often than not the trade is by means of cash only transactions with no traceability of where products have been obtained from, which makes it impossible to trace the source in case of problems with the products contents. There is a requirement on retailers to be able to trace the provenance of food products they supply.

Those buying such items are well aware that such products may present problems as the products will be supplied to them by illegitimate means and as they are passing them on to members of the public they should act more responsibly.

When there have been scares about unsafe spirits being supplied that are injurious to public health it is always when they are illicit products, such as the ones found at these premises. Although none of the products found were injurious to health on this occasion, the retailer has shown a complete disregard by purchasing them illegally.

If traders act unscrupulously in the process of purchasing cheap products this can only lead to the conclusion they act the same way in dealing with members of the public they are supposed to serve in passing off UK Duty paid when it is not.

Where these items came from is anyone's guess. Buying these items from anyone other than an authorised wholesaler should automatically alert the Licence holder that the products are of a dubious origin and/or illegal in nature. Such "under the counter" or "off a back of a lorry" transactions are unlikely to have gone through its books of the business.

Given the seriousness of this matter Trading Standards would ask the Committee to consider all the available options when reviewing the Licence of the premises.

Additional Information:

The premise Licence holder and owner of the business is Mr Omer Zaman. He is also the Designated Premises Supervisor for the premises.

Mr Zaman has offered no explanation of his actions or reason for the items being in his possession. In fact he has not had the decency to reply to a letter requesting an interview sent to him on the 17 October 2016. This letter was sent to his home address.

Bearing in mind that Mr Zaman is a relatively "new" licence holder; it was granted on the 15 June 2016, it is concerning that he appears to total disregard for such serious matters that may affect his Licence radically and irreversibly.

Mr Zaman has another alcohol licence for a second premises; "Woodbridge News" 38 8395814

Woodbridge Road where a further 14 bottles of illicit/non-duty paid bottles of alcohol were seized on the same day. Once again no explanation has been offered, clearly a demonstration of total disregard for the law and the Council's efforts to regulate the Licensing environment.

Mr Zaman's actions have at best been incredibly naïve and at worst a clear intention to purchase cheap alcohol and to supply it to the public. This would breach the Trade Marks Act 1994, the Consumer Protection from Unfair Trading Regulations 2008 as well as Food Safety Legislation and evade UK Duty Tax.

In this case it appears that Mr Zaman has done absolutely nothing to carry out any checks whatsoever on the products he supplied. It appears that he has not met the licensing objectives in dealing in illegal products.

Dealing in such goods brings crime into neighbourhoods and will affect the reputation of the area. If they are willing to deal in illegal products then other criminal matters are likely to occur.

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

Please tick ✓ yes
no

If yes please state the date of that application

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

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

N/A

Please tick ✓

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature

.....

Date

..... 14/12/2016

Capacity for and on behalf of Donna Bensley Chief Inspector of Weights & Measures

.....

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

Notes for Guidance

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

8395814

Page 8 of 8

BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003PREMISES LICENCE

Premises Licence Number:

4518 / 1

Part 1 - Premises details:

Postal address of premises, or if none, ordnance survey map reference or description Moseley Wines 44 St Marys Row Moseley	
Post town: Birmingham	Post Code: B13 8JG
Telephone Number:	

Where the licence is time limited the dates N/A

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

The times the licence authorises the carrying out of licensable activities			
Monday - Sunday	11:00	-	22:00 M2

The opening hours of the premises			
Monday - Sunday	11:00	-	22:00

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

BIRMINGHAM CITY COUNCIL

Part 2

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

Registered number of holder for example company number or charity number (where applicable) N/A

Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Mr Omer Zaman	
Post town:	Post Code:
Telephone Number:	

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

Dated 15/06/2016

SHAID YASSER
Senior Licensing Officer
For Director of Regulation and Enforcement

BIRMINGHAM CITY COUNCIL

Annex 1 – Mandatory Conditions

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

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

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

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price. (2) In this condition:— (a) "permitted price" is the price found by applying the formula $P = D + (D \times V)$, where— (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol; (b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence— (i) the holder of the premises licence, (ii) the designated premises supervisor (if any) in respect of such a licence, or (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence; (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994. (3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny. (4) Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

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Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

All members of staff (with the exception of personal licence holders) will receive training regarding the:-

- four licensing principles contained in the Licensing Act 2003;
- responsible retailing of alcohol, and law regarding sales of alcohol;
- protection of children from harm and this must include how to competently check customers' identification where necessary;
- permitted hours during which licensable activities can take place, and the conditions attached to the premises licence.

Staff training records detailing the training provided must be maintained for each members of staff and the training records must sign and date by the member of staff to confirm they have received and understood the training provided.

The staff training records must be kept at the premises and made available to any Responsible Authority upon request.

All spirits exposed for sale will be displayed behind the counter and supervised at all times.

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

The premises licence holder shall ensure that single cans, bottles, cartons of any alcoholic drink over 5.5% ABV, with the exception of wine and spirits shall not be sold at the premises.

A refusal register shall be maintained and kept at the premises and shall be signed off weekly by the DPS.

A CCTV system shall be installed at the premises to the satisfaction of West Midlands Police.

The CCTV system will be maintained and operational at the premises at all time when the premises are open to the public.

The images recorded by the CCTV system shall be retained in unedited form for a period of not less than 28 days and must be downloaded and made available to any Responsible Authority upon request.

The front entrance door must be covered by a CCTV camera to record a frontal identification of every person entering the premises.

An external CCTV camera will be installed to cover the area immediately outside the entrance into the premises.

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

A notice must be prominently displayed in the premises requesting that customers respect the needs of local residents and other businesses in the vicinity and to leave the premises quietly.

BIRMINGHAM CITY COUNCIL

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

The premises licence holder will implement and operate a Challenge 25 age verification policy to prevent the sale or supply of alcohol to persons under 18 years of age. No ID No Sale

The premises licence holder will have a written age verification policy – Challenge 25.

A copy of the age verification policy must be signed and dated by all members of staff to confirm they have read and understand the policy in operation. The signed copy of the policy must be maintained at the premises and available for inspection by any Responsible Authority on request.

Notices or /posters will be displayed at the premises and clearly visible to customers informing them that a Challenge 25 age verification policy is in operation at the premises.

The premises licence holder will maintain a refusals register (or refusal button on EPOS – Electronic Point of Sale) on the premises and ensure it is completed whenever a sale is refused to a person who cannot prove they are over the age of 18.

The refusal register or record of till recorded refusals must be made available for inspection to any Responsible Authority on request.

BIRMINGHAM CITY COUNCIL

Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

N/A

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

N/A

3c) Committee conditions to promote public safety

N/A

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

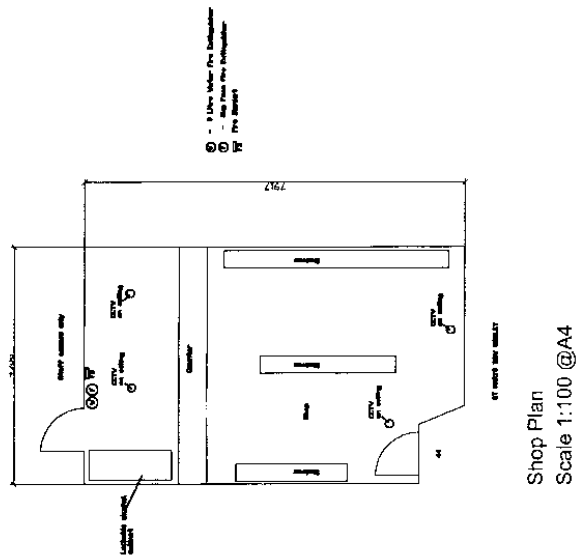
N/A

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

N/A

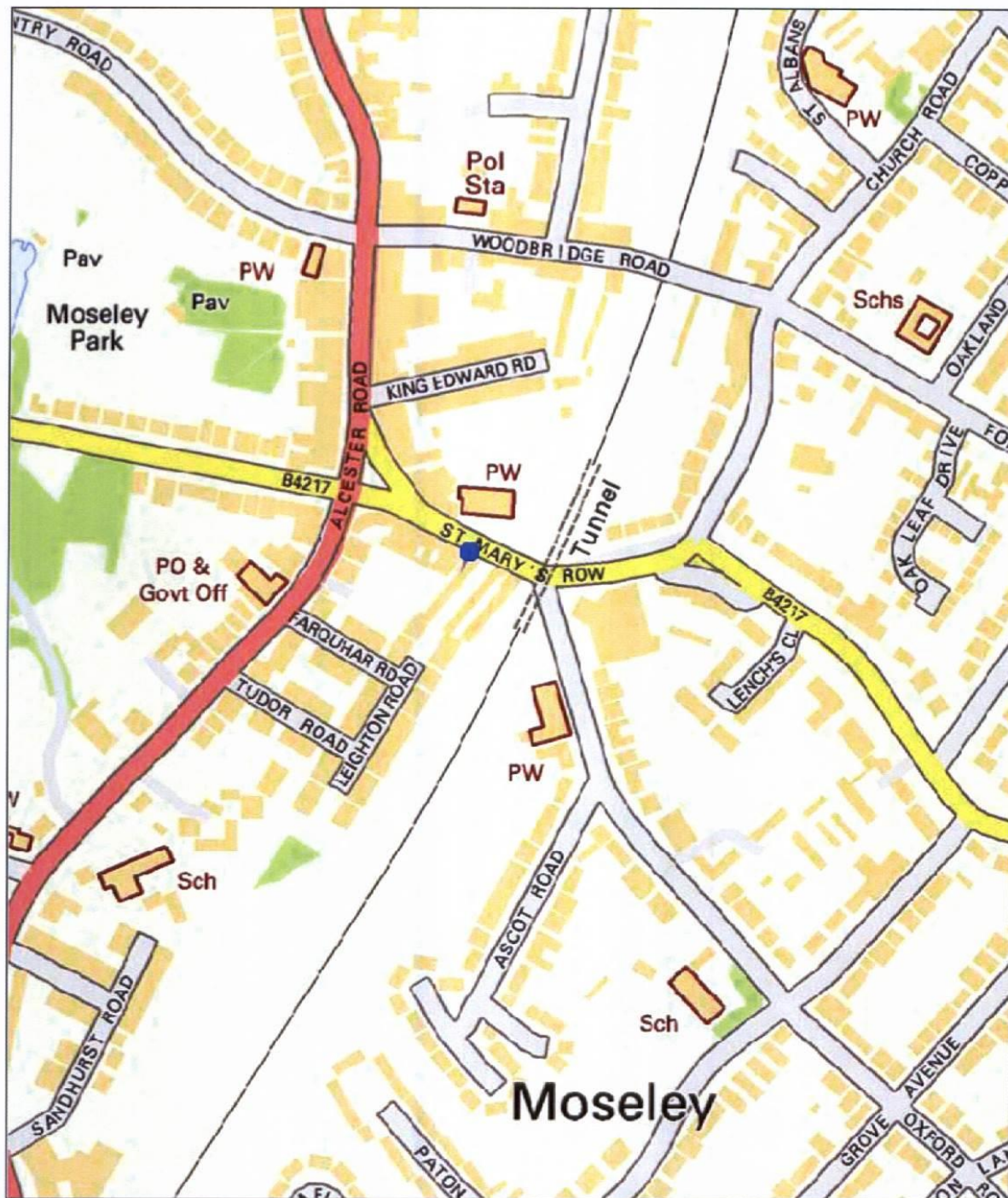
BIRMINGHAM CITY COUNCIL

Annex4/Plans



Premises License for
44 St Mary Row,
Mosley,
Birmingham.
B13 8JG

Ref	Date	By	For
001	01/01/18	01/01/18	01/01/18
002	01/01/18	01/01/18	01/01/18
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Birmingham City Council

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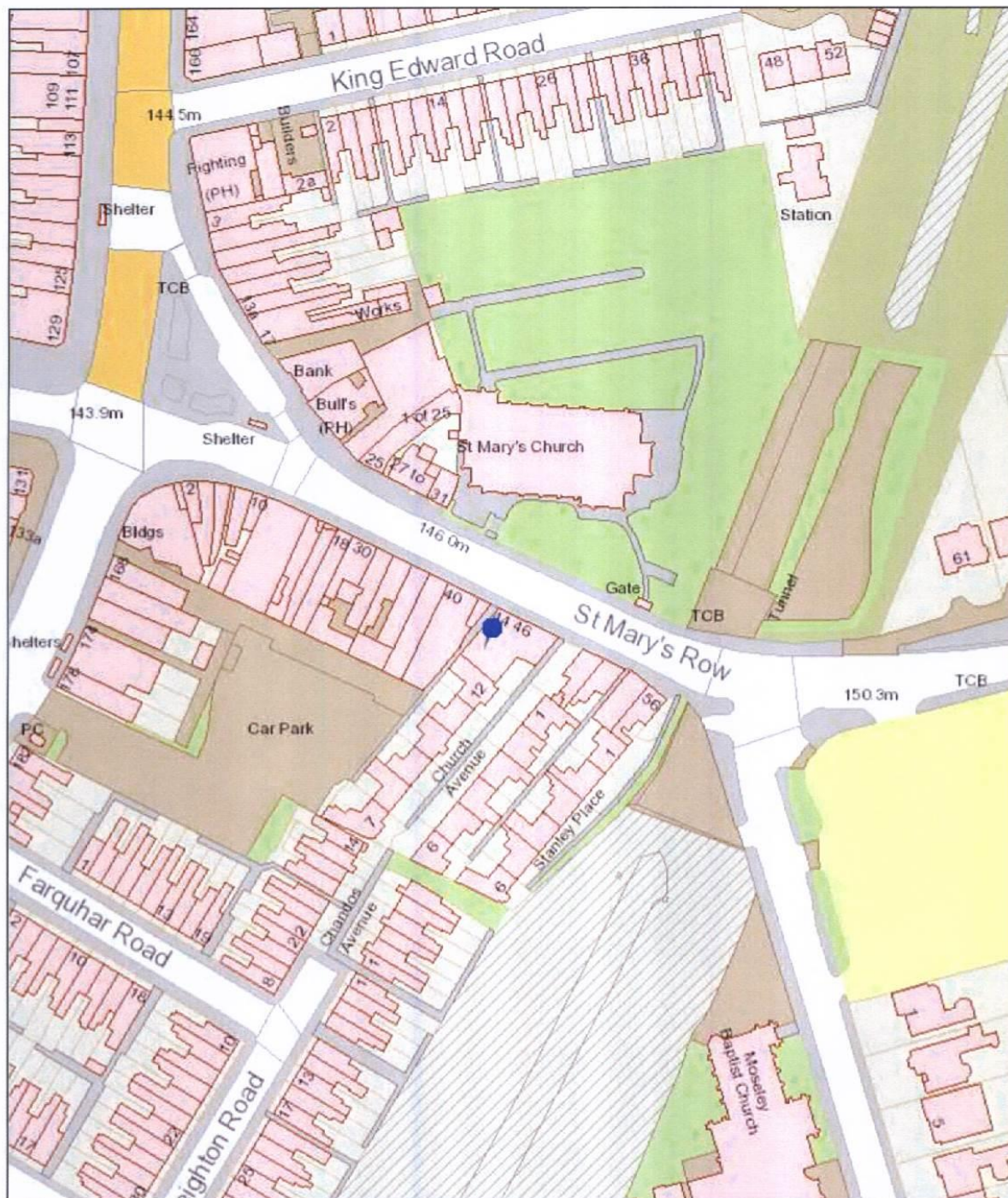
Notes

Date of Map Creation: 25/01/2017



Scale:
1:4,000

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Notes

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BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Wednesday 8th February 2017
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	Woodbridge News, 38 Woodbridge Road, Moseley, Birmingham, B13 8EJ
Ward affected:	Moseley and Kings Heath
Contact Officer:	David Kennedy, Principal Licensing Officer, 0121 303 9896, licensing@birmingham.gov.uk

1. Purpose of report:

To consider an application to review a Premises Licence.

2. Recommendation:

To consider and determine the review application.

3. Brief Summary of Report:

Review application received on 20th December 2016 from the Chief Inspector of Weights and Measures in respect of Woodbridge News, 38 Woodbridge Road, Moseley, Birmingham, B13 8EJ.

Representations have been received from 3 responsible authorities.

4. Compliance Issues:

4.1 Consistency with relevant Council Policies, Plans or Strategies:

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

5. Relevant background/chronology of key events:

The Chief Officer of Weights and Measures applied on 20th December 2016 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for Woodbridge News, 38 Woodbridge Road, Moseley, Birmingham, B13 8EJ.

Representations have been received from West Midlands Police, Birmingham City Council Licensing Enforcement and Public Health, as responsible authorities. See Appendices 1 -3.

Review application is attached, see Appendix 4.

The Premises Licence is attached at Appendix 5.

Site location plans are attached at Appendix 6.

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

The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -

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

6. List of background documents:

Copy of the representations as detailed in Appendices 1 – 3

Review Application Form, Appendix 4

Copy of Premises Licence, Appendix 5

Site location plans, Appendix 6

7. Options available

Modify the conditions of Licence

Exclude a Licensable activity from the scope of the Licence

Remove the Designated Premises Supervisor

Suspend the Licence for a period not exceeding 3 months

Revoke the Licence

No Action

Where the authority takes a step to modify conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

Appendix 1

ENTERED

From: Christopher Jones -
Sent: 13 January 2017 09:49
To: Licensing
Cc: Paul Ellson
Subject: Woodbridge News Moseley - Representation

Good Morning,

West Midlands Police support the representation made by Birmingham Trading Standards regarding Woodbridge News, 38 Woodbridge Road, Moseley B13 8EJ – premises licence number 2352. The representation is supported under the Prevention of Crime & Disorder and Public Safety Licensing Objectives.

There was a substantial amount of suspect alcohol found at the premises, which later was confirmed as illicit/non duty paid and should not have been on sale in this country.

More often than not the trade in this sort of illicit alcohol is made by cash payments and does not do through 'the books' and no tax is paid.

This trade tends to support organised crime activities and by the premises purchasing such alcohol they are helping to fund further criminal activity.

There is no way that when the premises purchased this alcohol they could have be aware of the origin of the product and they wouldn't have known if it was fit for human consumption, seemingly only being worried about maximising profits with total disregard for public safety.

The fact that the DPS who is also the premises licence holder has not been in contact with Trading Standards. The fact that illicit alcohol was found in his other premises in Moseley, on the same day, all indicates that Mr Zaman has a total disregard for the licensing objectives, public safety and points to a sustained pattern of behaviour with the only concern being maximising his personal gain.

Regards

Chris Jones on behalf of West Midlands Police.

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Appendix 2

Birmingham City Council Licensing Service

Representation as a responsible authority in respect of the premises licence number 2352/4 granted under the Licensing Act 2003 in respect of premises known as:

- Woodbridge News, 38 Woodbridge Road, Moseley, Birmingham, B13 8EJ

Introduction

The current premises licence holder - Mr Omer Zaman,

Mr Omer Zaman is also the nominated designated premises supervisor in respect of the premises licence.

The Premises licence granted to Mr Zaman authorises the following licensable activities:-

M2 - Sale of alcohol by retail (off the premises)

And permits this licensable activity to take place:-

Monday – Sunday 08:00 - 23:00 hours

Conditions applied to the premises licence

In addition to the mandatory conditions contained within the Act the premises licence has the following conditions were applied to it:-

2a) General conditions consistent with the operating schedule

No enforceable conditions identified from operating schedule.

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

No enforceable conditions identified from operating schedule.

The licence holder shall take appropriate measures to ensure that relevant Fire Safety and Health and Safety legislation is complied with.

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

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

No enforceable conditions identified from operating schedule.

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

The licence holder will take appropriate measures to ensure that the Challenge 21 policy is maintained on the premises.

The licence holder will take appropriate measures to ensure that staff on the premises, will only accept photographic identification when supplying alcohol to consumers.

The licence holder will take appropriate measures to ensure that the staff on the premises receive adequate training to prevent supply of alcohol to underage persons.

Background Information

On 24th August 2016 a joint inspection was carried out at the premises in conjunction with Officers from West Midlands Police and Trading Standards.

During the inspection the Trading Standards Officer identified a quantity of spirits both on display behind the counter and in a rear store room which he suspected were illicit bottles of alcohol. The suspect bottles were seized and removed from the premises for further investigation.

Licensing Act 2003 - Section 136 Un-authorised licensable activities

- (1) A person commits an offence if—
- (a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or
 - (b) he knowingly allows a licensable activity to be so carried on.

Licensing Act 2003 - Section 144 Keeping of smuggled goods

- (1) A person to whom subsection (2) applies commits an offence if he knowingly keeps or allows to be kept, on any relevant premises, any goods which have been imported without payment of duty or which have otherwise been unlawfully imported.
- 2) This subsection applies—
- (a) to any person who works at the premises in a capacity, whether paid or unpaid, which gives him authority to prevent the keeping of the goods on the premises,
 - (b) in the case of licensed premises, to—
 - (i) the holder of a premises licence in respect of the premises, and
 - (ii) the designated premises supervisor (if any) under such a licence,

Guidance issued under section 182 of the Licensing Act 2003

Reviews arising in connection with crime states at points:-

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the

premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Licensing Enforcement Team Recommendations to the Licensing Committee

As a Licensing Authority Birmingham City Council must carry out its licensing functions with a view to promoting the licensing objectives contained in the Act.

The Act is clearly intended to prevent crime and disorder in relation to premises, as well as deter and prevent unscrupulous persons from operating illegally under the authorisation of a premises licence.

Selling smuggled and counterfeit goods is not a victimless crime but one that affect society as a whole. Persons involved in smuggling, or the sale of smuggled and illicit alcohol are actively:-

- Supporting organised crime;
- Breaking the law;
- Putting the safety of the public at risk as traders cannot know if the good they are selling are counterfeit products that could harm, or cause serious risk to the health of the consumers; and
- Causing huge losses to the UK's tax revenue.

As a Licensing Authority Birmingham City Council must be seen to take decisive action to deter such criminal activities and ensure that no-one is permitted to profit by operating illegally.

Any trader knowingly purchasing and selling illicit alcohol is acting illegally, putting the safety of customers at risk and seriously undermining the licensing objectives relating to the:-

- Prevention of Crime and Disorder;
- Public Safety;

Given that Mr Zaman holds two premises licences and illicit alcohol was identified at both premises on the same day and the Licensing Enforcement Team recommends the Licensing Sub Committee consider revocation of the premises licence granted to him in respect of Woodbridge News.

Appendix 3



Birmingham Public Health

People Directorate
10 Woodcock St

Birmingham

B7 4BH

Licence Review Reference Information

Licence Number: 2352

Review Applicant Number: 8395818

Date: 17/01/2017

This is a response document from Birmingham Public Health in its capacity as a Responsible Authority (Police Reform and Social Responsibility Act 2011). This document supports the application for a review of a premises licence or club premises certificate under the Licensing Act 2003.

Wherever possible, supporting information contained within this document will be evidence-based and demonstrably refer to one or more of the licensing objectives. As there is currently no licensing objective directly relating to public health, the supporting information will be relevant to at least one of the four existing objectives, those objectives being:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

To promote good practice and a collaborative, multi-agency approach, we will also share this document with the other Responsible Authorities for licensing in Birmingham.

On behalf of Dr Adrian Phillips – Director of Public Health

Birmingham Public Health

Birmingham City Council

17/01/2017

Part 1:

Premises or club details

Name of premises	Woodbridge News
Postal address of premises	38 Woodbridge Road, Moseley
Post town	Birmingham
Post code	B13 8EJ
Name of premises licence holder or club holding club premises certificate	Mr Omer Zaman
Number of premises licence or club premises certificate	2352

Part 2:

Responsible Authority applicant

Name and address	Paul Ellison/Donna Bensley/Trading Standards PO Box 16586, Birmingham B33 3EH
Telephone	
Email	
Reference	8395818

Part 3:

Overview of the Grounds for Review

Supply of counterfeit alcohol to the general public via general store

A disproportionately large amount of counterfeit alcohol in possession/stock

Relatively new licence holder

Licence holder for another premises/general store. More counterfeit alcohol was found here too.

2

Part 4:

Public Health response

Licensing Objective	Response
The prevention of crime and disorder	<p>The illicit trade in tobacco, alcohol and pharmaceuticals is often more attractive to organised criminals than, for example, drug trafficking, given that it is a low-risk and high-value activity. The high profit margins associated with illicit trade are used to fund other criminal activities – a fact not widely understood by the British public²</p> <p>Research suggest that Organised Crime Groups (OCGs) are involved at all stages of the supply chain, from the suppliers to those holding goods in duty suspense, hauliers, excise warehouses, lock-ups and cash-and-carry stores, corner shops and other outlets²</p> <p>The proceeds from OCGs can find their way into other activities including Child sexual exploitation cyber-crime, drugs, illegal firearms, modern slavery and human trafficking, kidnap and extortion, money laundering³</p>
Public safety	<p>Commonly used substitutes for ethanol include chemicals used in cleaning fluids, nail polish remover and automobile screen wash, as well as methanol and isopropanol which are used in antifreeze and some fuels¹</p> <p>Drinking alcohol containing these chemicals can cause nausea and vomiting, abdominal pain, drowsiness and dizziness. It can also lead to kidney or liver problems and even coma. Methanol, a substance which can be used in fake vodka, may cause permanent blindness or death.¹</p>
The prevention of public nuisance	N/A
The protection of children from harm	<p>Counterfeit alcohol is often linked to OCG². Unfortunately, the proceeds of OCG can be linked to other illegal activities which can include Child Sexual Exploitation and human trafficking.</p> <p>In Birmingham, circa 20,000 children are affected by parental alcohol problems⁴</p>
<p>Summary: The retailer showed a complete disregard for Public Health by purchasing for re-sale to the general public items which he did not know the provenance, and could therefore have proven injurious to the general public – this cannot be tolerated. Counterfeit alcohol is often linked to OCGs – Birmingham has seen the direct impact of OCGs on more than one occasion – any action that supports OCG cannot be tolerated. We know that alcohol related issues⁵ in Birmingham cost in the region of £200 million per year⁵. We support the review of this licence as there is no place in Birmingham's licensed alcohol community for people who choose to engage with and promote the supply chain of counterfeit alcohol, the sale of counterfeit alcohol, and therefore contribute to the primary and secondary impacts that can arise from this type of activity.</p>	

Part 4:

Supporting information/appendix

References

1. <https://www.drinkaware.co.uk/advice/staying-safe-while-drinking/the-dangers-of-fake-alcohol/>
2. <http://www.nationalcrimeagency.gov.uk/crime-threats/organised-crime-groups>
3. https://rusi.org/sites/default/files/201412_whr_on_tap.pdf
4. <http://birminghamcsp.org.uk/admin/resources/birmingham-alcohol-strategy-2012-2016-lo-res-210612-v2.pdf>
5. Statistics taken from the Birmingham Alcohol Strategy 2012 – 2016
 - 12,000 violent incidents (around half of all violent crimes);
 - 3,600 incidents of domestic violence (around a third) are linked to alcohol misuse;
 - Anti-social behaviour and fear of crime – 61% of the population perceive alcohol-related violence as worsening;
 - At peak times, up to 70% of all admissions to accident and emergency departments are related to alcohol;
 - Up to 170,000 working days are lost through alcohol-related absence;
 - In the region of 20,000 children are affected by parental alcohol problems;
 - Increased divorce – marriages where there are alcohol problems are twice as likely to end in divorce;
 - In 2009, half of all 11-15 year olds had already had an alcoholic drink;
 - Nationally in 2009/10, there were 1,057,000 alcohol-related admissions to hospital;
 - Parental alcohol misuse has been identified as a factor in over 500 child protection cases

Appendix 4

<p style="text-align: center;">Application for the review of a premises licence or club premises certificate under the Licensing Act 2003</p>	<p style="text-align: center;">ACC REGISTRATION & ENFORCEMENT LICENSING SECTION DATE RECEIVED</p>
--	---

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I Paul Ellson (on behalf of Donna Bensley Chief Inspector of Weights & Measures)
(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details; WOODBRIDGE NEWS

Postal address of premises or, if none, ordnance survey map reference or description	
Woodbridge News 38 Woodbridge Road Moseley	
Post town BIRMINGHAM	Post code (if known) B13 8EJ

Name of premises licence holder or club holding club premises certificate (if known)
Mr Omer Zaman (Licence Holder & DPS)

Number of premises licence or club premises certificate (if known)
2352

Part 2 – Applicant details

I am

Please tick ✓ yes

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

☐

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

yes ✓

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

☐

8395818

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

Please tick ✓ yes

Mr ☐

Mrs ☐

Miss ☐

Ms ☐

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes
☐

Current postal
address if
different from
premises
address

N/A

Post town

Post Code

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address
N/A

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address; Paul Ellson, Trading Standards Enforcement Officer for and on behalf of Donna Bensley Chief Inspector of Weights & Measures Birmingham City Council Trading Standards PO Box 16586 Birmingham B33 3EH Our Reference 8395818
Telephone number (if any)
E-mail address (optional)

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

- | | |
|---|--------------------------|
| 1) the prevention of crime and disorder | ✓ |
| 2) public safety | ✓ |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | ✓ |
- Please tick one or more boxes

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

On 24 August 2016 Birmingham Trading Standards Enforcement Officer Paul Ellson assisted by West Midlands Police Licencing Officer Chris Jones and Licensing Enforcement Officer Teresa Wilde from Birmingham City Council's Licensing Section visited Woodbridge News 38 Woodbridge Road, Moseley, Birmingham B13 8EJ. The Premises Licence holder for this premise is Mr Omer Zaman.

Officers entered the premise at 13.15 pm. A woman was standing behind the counter and Officer Ellson identified himself and the other officers present.

The woman gave her name as Kaneez Fatima and said that she was an employee of Mr Omer Zaman, the licence holder for the premises.

Officer Ellson informed Ms Fatima that he had reasonable grounds to suspect that there was some illegal alcohol on the premises. He issued her with a Code B Inspection Notice under the Police and Criminal Evidence Act 1984 and other required information.

Ms Fatima signed the documents and was given copies for the Premises Licence Holder.

During the course of the inspection Officer Ellson found 2 bottles of High Commissioner Whisky on the shelving behind the counter. These bottles had the classic signs of an illicit/non-duty paid product in that the front label of the bottle was labelled "Blended Scotch Whisky" but the back label had "Old Scotch Whisky" on it.

There were also 12 bottles of Glens Vodka which had poor quality back labels which are a classic sign of an illicit/non-duty paid product; these were found hidden under the sink in the kitchen.

There was no illicit stock found in any of the stockrooms in the shop or the one outside in the garden.

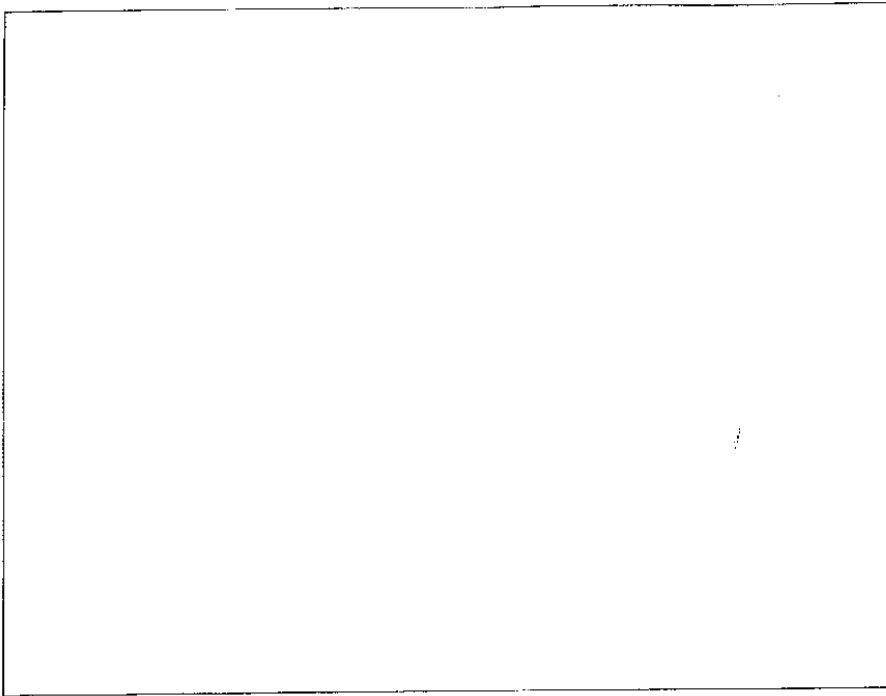
A total of 14 bottles of suspected illicit/non-duty paid items were removed from the premises.

A Traders Notice for the products was issued to Ms Fatima as a receipt which she duly signed and received a copy. There were no other illicit/non-duty items found on the premises at this time.

Subsequently a sample of the seized products was sent to Loch Lomond Group, who is the manufacturers, for examination and for them to comment on the authenticity of the products.

On 30 September 2016 the Governance Manager for Loch Lomond, Euan Birrell confirmed that all the High Commissioner Whisky and the Glen's Vodka had counterfeit back labels applied. These incorporated a fake UK Duty Paid stamp.

One of the sample bottles had been damaged in transit but examination was still possible and there was no doubt that this bottle also had a counterfeit back label attached.



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

Although only 14 bottles of illicit alcohol (i.e. non-duty paid and counterfeit back labels) were found it was a considerable amount of stock in the shop was so poorly stocked, it represented a significant amount of their available supply.

All of the bottles of alcohol were found to have counterfeit UK duty stamped labels applied to the back of the bottles. This implies that they can be legally sold in the UK. However this is not the case as the bottles were originally intended for export and as such are not legal for sale in this country. They cannot be purchased by any legal means in the UK and can only have been supplied illegally.

The products were intended to be sold abroad as no UK duty has been paid on them and they have been diverted into this country by some illicit means at best through smuggling routes if not by other illegal means. Much of this is done by organised criminal gangs who pay no tax on the products and undermine legitimate trade in the process.

More often than not the trade is by means of cash only transactions with no traceability of where products have been obtained from, which makes it impossible to trace the source in case of problems with the products contents. There is a requirement on retailers to be able to trace the provenance of food products they supply.

Those buying such items are well aware that such products may present problems as the products will be supplied to them by illegitimate means and as they are passing them on to members of the public they should act more responsibly.

When there have been scares about unsafe spirits being supplied that are injurious to public health it is always when they are illicit products, such as the ones found at these premises. Although none of the products found were injurious to health on this occasion, the retailer has shown a complete disregard by purchasing them illegally.

If traders act unscrupulously in the process of purchasing cheap products this can only lead to the conclusion they act the same way in dealing with members of the public they are supposed to serve in passing off UK Duty paid when it is not.

Where these items came from is anyone's guess. Buying these items from anyone other than an authorised wholesaler should automatically alert the Licence holder that the products are of a dubious origin and/or illegal in nature. Such "under the counter" or "off a back of a lorry" transactions are unlikely to have gone through its books of the business.

Given the seriousness of this matter Trading Standards would ask the Committee to consider all the available options when reviewing the Licence of the premises.

Additional Information:

The premises licence holder and owner of the business is Mr Omer Zaman. He is also the Designated Premises Supervisor for the premises.

Mr Zaman has offered no explanation of his actions or reason for the items being in his possession. At the time of writing this review he has not had the decency to reply to a letter requesting an interview sent to him on 17 October 2016. This letter was sent to his home address

Bearing in mind that Mr Zaman is a relatively "new" licence holder; it was granted on 21 December 2016 it is concerning that he appears to total disregard for such serious matters that may affect his Licence radically and irreversibly.

Mr Zaman has another alcohol licence for a second premises "Moseley Wines" 44 St. Marys

Row just around the corner where a further 23 bottles of illicit/non-duty paid bottles of alcohol were seized on the same day.

This is why he was unable to attend the premises of Woodbridge News on day of the inspection and seizure as he was at Moseley Wines; the premises which the officers had left earlier that day. Once again no explanation has been offered, clearly a demonstration of total disregard for the law and the Council's efforts to regulate the Licensing environment.

To have hidden the 12 bottles of Glen's Vodka under the sink in the kitchen indicates that Mr Zaman must have known that they were illegal.

The 2 bottles of High Commissioner Whisky found at the site had the same batch ID code as the High Commissioner Whiskey found at Mr Zaman's other premise Moseley Wines; quite clearly they were purchased together from the same source. Therefore it must be Mr Zaman's intention to purchase cheap alcohol and to supply it to the public.

The criminal legislation applicable is the Trade Marks Act 1994, the Consumers Protection from Unfair Trading Regulations 2008 as well as Food Safety Legislation and HMRC offences for evasion of Duty.

In this case it appears that Mr Zaman has done absolutely nothing to carry out any checks whatsoever on the products he supplied. It appears that he has not met the licensing objectives in dealing in illegal products.

Dealing in such goods brings crime into neighbourhoods and will affect the reputation of the area. If they are willing to deal in illegal products then other criminal matters are likely to occur.

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

Please tick ✓ yes
no

If yes please state the date of that application

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

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

N/A

Please tick ✓

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature

Date

14/12/2016

Capacity for and on behalf of Donna Bensley Chief Inspector of Weights & Measures

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

Notes for Guidance

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

8395818

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BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003

PREMISES LICENCE

Premises Licence Number:

2352 / 4

Part 1 - Premises details:

Postal address of premises, or if none, ordnance survey map reference or description	
Woodbridge News 38 Woodbridge Road Moseley	
Post town:	Post Code:
Birmingham	B13 8EJ
Telephone Number:	

Where the licence is time limited the dates
N/A

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

The times the licence authorises the carrying out of licensable activities
Monday - Sunday 08:00 - 23:00 M2

The opening hours of the premises
Monday - Sunday 08:00 - 23:00

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

BIRMINGHAM CITY COUNCIL

Part 2

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

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

Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Mr Omer Zaman	
Post town:	Post Code:
Telephone Number:	

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

Dated 21/12/2015

SHAID YASSER
Senior Licensing Officer
For Director of Regulation and Enforcement

BIRMINGHAM CITY COUNCIL

Annex 1 – Mandatory Conditions

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

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

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

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price. (2) In this condition:— (a) "permitted price" is the price found by applying the formula $P = D + (D \times V)$, where— (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol; (b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence— (i) the holder of the premises licence, (ii) the designated premises supervisor (if any) in respect of such a licence, or (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence; (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994. (3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny. (4) Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

BIRMINGHAM CITY COUNCIL

Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

No enforceable conditions identified from operating schedule.

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

No enforceable conditions identified from operating schedule.

The licence holder shall take appropriate measures to ensure that relevant Fire Safety and Health and Safety legislation is complied with.

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

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

No enforceable conditions identified from operating schedule.

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

The licence holder will take appropriate measures to ensure that the Challenge 21 policy is maintained on the premises.

The licence holder will take appropriate measures to ensure that staff on the premises, will only accept photographic identification when supplying alcohol to consumers.

The licence holder will take appropriate measures to ensure that the staff on the premises receive adequate training to prevent supply of alcohol to underage persons.

BIRMINGHAM CITY COUNCIL

Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

N/A

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

N/A

3c) Committee conditions to promote public safety

N/A

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

N/A

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

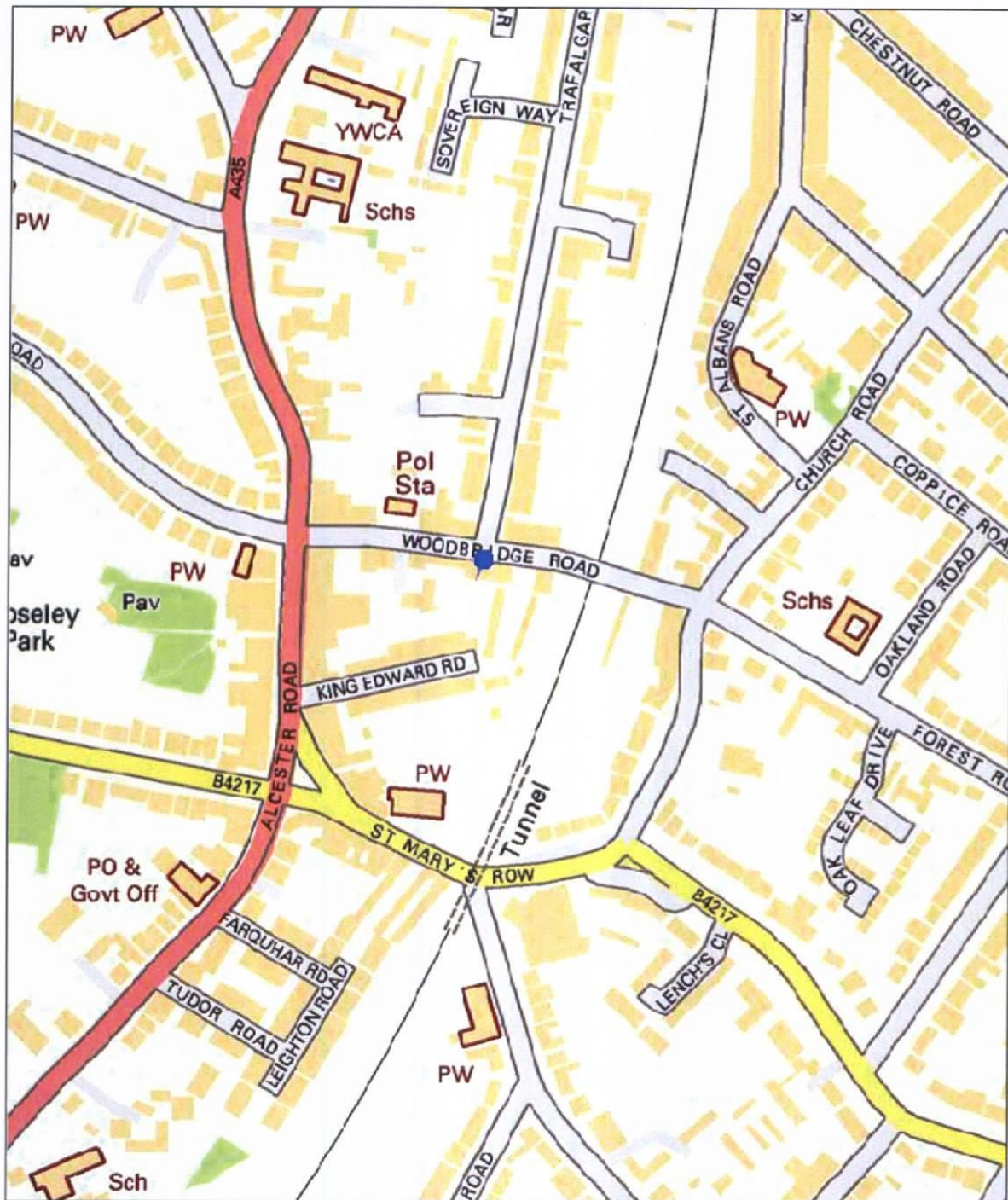
N/A

BIRMINGHAM CITY COUNCIL

Annex 4 – Plans

The Plan of the premises with reference number **WK1A** which is retained with the public register kept by Birmingham City Council and available free of charge for inspection by appointment only. Please ring the Licensing Section on 0121 303 9896 to book an appointment.

Appendix 6



Birmingham City Council Map Created By:

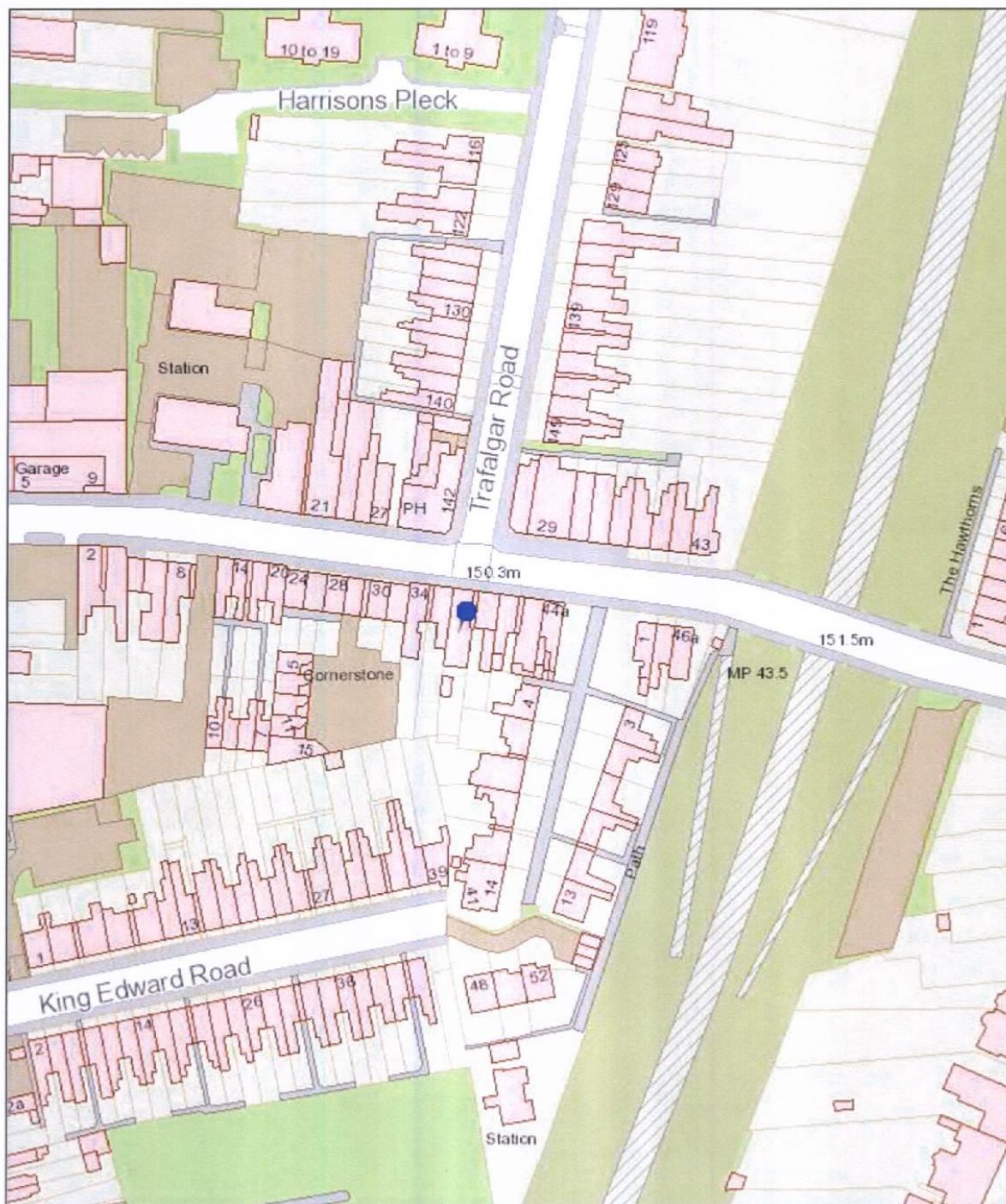
Date of Map Creation: 27/01/2017

Notes

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Scale:
1:4,000



Birmingham City Council Map Created By:

Notes

Date of Map Creation: 27/01/2017



Scale:
1:1,250

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