

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C
Report of:	Interim Assistant Director of Regulation & Enforcement
Date of Meeting:	Wednesday 20th April 2022
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	Booze Burst, 321 – 323 Fox Hollies Road, Acocks Green, Birmingham, B27 7PS
Ward affected:	Tyseley and Hay Mills
Contact Officer:	David Kennedy, Principal Licensing Officer, 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 22nd February 2022 from West Midlands Police in respect of Booze Burst, 321 – 323 Fox Hollies Road, Acocks Green, Birmingham, B27 7PS.

A representation has been received from Birmingham City Council Licensing Enforcement, as a responsible authority.

4. Compliance Issues:

4.1 Consistency with relevant Council Policies, Plans or Strategies:

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

5. Relevant background/chronology of key events:

West Midlands Police applied on 22nd February 2022 under Section 51 of the Licensing Act 2003 for a review of the Premises Licence granted to Mr Ghulam Paswal in respect of Booze Burst, 321 – 323 Fox Hollies Road, Acocks Green, Birmingham, B27 7PS.

A representation has been received from Birmingham City Council Licensing Enforcement, as a responsible authority, which is attached at Appendix 1.

The review application is attached at Appendix 2.

The Premises Licence is attached at Appendix 3.

Site location plans are attached at Appendix 4.

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

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

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

6. List of background documents:

Copy of the representation as detailed in Appendix 1
Review Application Form, Appendix 2
Copy of Premises Licence, Appendix 3
Site location plans, Appendix 4

7. Options available

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

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

From: Gary Callaghan
Sent: 22 March 2022 11:44
To: Bhapinder Nandhra
Cc: Licensing
Subject: Review of Premises Licence

RE: Booze Burst, 321-323 Fox Hollies Road, Acocks Green Olton, Birmingham, B27 7PS.
Premises Licence number 3962

I wish to support the Police review in respect of the above premises, From a Licensing Enforcement viewpoint the premises are expected to promote the Licensing Act 2003 objectives, namely in this instance to promote the Prevention of Crime and Disorder , Public Safety and The Protection of Children from Harm. Due to recent and historic matters of concern highlighted by the Police in there review, I would have serious concerns with the management control at the premises. I feel committee should consider all the range of options open to them in this matter.

Regards,
Gary Callaghan

Gary Callaghan
Licensing Enforcement Officer
Birmingham City Council Licensing Enforcement

Birmingham City Council, PO Box 17013, Birmingham, B6 9ES

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I The Chief Constable of West Midlands Police

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description

Booze Burst Ltd
321-323 Fox Hollies Road
Acocks Green

Post town Birmingham

Post code (if known) B27 7PS

Name of premises licence holder or club holding club premises certificate (if known)

Mr Ghulam Paswal

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

3962

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)

☒

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

☐

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

Please tick ✓ yes

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

Surname

First names

I am 18 years old or over

Please tick ✓ yes

☐

Current postal
address if
different from
premises
address

Post town

Post Code

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address: Chief Constable of West Midlands Police Central Licensing Team Lloyd House Snow Hill Queensway Birmingham City Centre B4 6DG
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
- 4) the protection of children from harm

Please tick one or more boxes ✓

- ☒
☒
☐
☒

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

The premises not promoting the licensing objectives of the prevention of crime & disorder, public safety and protection of children from harm.

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

The premises has failed to promote the licensing objective of the prevention of crime & disorder, public safety and protection of children from harm.

The Premises Licence Holder who is also the Designated Premises Supervisor has shown poor or complete lack of management of the licenced premises over a prolonged period of time despite intervention and advice given by West Midlands Police on several occasions.

On Thursday 10th February 2022 a joint visit took place at the premises with WMP Licensing, Trading Standards and Neighbourhood Officers. This visit was arranged as intelligence had been received that the premises was selling illicit tobacco products.

There was no illicit tobacco found in the premises but when officers were searching they found an amount of cannabis and a grinder in a rucksack which was in the stock room. The sole member of staff admitted it was his bag and his cannabis. Officers then searched the member of staff and found he had a large amount of cash on him, including a large number of £50.00 notes. Officers also search a van which the staff member had keys for. The member of staff stated that the van was his but used for shop business. Officers found more cannabis in the van, which was parked outside the front of the shop.

The staff member stated that the money was from the shop takings and it was used to go to the cash and carry.

There was enough cannabis found for the member of staff to be arrested for possession of cannabis with intent to supply, although he was later charged with possession of cannabis.

Of note this member of staff was the only person in the premises until he contacted the DPS who arrived at the premises and then also another male who stated he was the co-owner along with the DPS.

The DPS stated that he knew nothing about the cannabis found.

While at the premises I checked the premises operating conditions with the DPS and no staff training records could be made available for any member of the staff.

There were plastic cups hanging up behind the counter found in a clear sleeve, which had a slit down the side so the cups could be accessed and also an open packet of plastic shot glasses behind the till. When asked the DPS denied giving these out with drinks when purchased.

The premises has an history of licence breaches, poor or lack of management and not promoting the licensing objectives as detailed below:

On 11.09.19 I visited the premises with a neighbourhood officer after they had received intelligence of underage sales and the sale of single cigarettes. On this visit there was again only one member of staff behind the till, the DPS and premises licence holder was not present.

On this visit 3 open packets of cigarettes were found behind the counter – the member of staff stated that the open packets all belong to him.

22 packets of foreign branded cigarettes (that should not be on sale in this country) were found behind the till. The member of staff again stated that he was selling them in the premises for his own monetary gain.

The DPS was contacted and attended the shop. He stated that he knew nothing of the illicit and in fact had only just returned from holiday.

Behind the counter there were plastic cups which the member of staff stated that gave to people who purchased alcohol. The DPS was advised accordingly.

On 11.03.20 I carried out another visit to the premises with the neighbourhood policing team again there was a sole member of staff in the premises again the DPS and PLH was not present. On this occasion 4 bottles of whisky were found behind the counter all with security tags still attached. The member of staff said that his friend had dropped them off for his birthday. The DPS was spoken with over the phone and again denied knowledge of the bottles.

Due to this and previous visits to the premises I invited the DPS to a meeting at Lloyd House to discuss his management of the premises.

The meeting was held on 18.03.20

The DPS agreed of his lack of control, he stated that on the two occasions 11.09.19 and 11.03.20 his brothers were on duty at the shop. He stated that he had a full time job and wasn't at the shop as much as he would like due to this. We discussed as to whether still employing his brothers was the right thing to do – but he insisted that they were still to work there.

At this meeting he was given the chance to devise an action plan to ensure he had more control of the premises and ensure the licensing objectives would be promoted by the premises. At the end of this meeting the DPS commented that I had been more than fair in the way I had dealt with the premises. This risk assessment was supplied.

West Midlands Police have received various intelligence regarding this premises. The most concerning being the supply of illicit drugs from the premises, mainly concerning the supply of cannabis.

The fact that the member of staff in the premises was arrested for possession of cannabis with intent to supply, he was in possession of a large amount of cash including a large amount of £50.00 notes would give some credence to this intelligence.

There have been other incidents reported to West Midlands Police that would also point to poor or lack of management:

19.05.21 – racially aggravated incident when the victim states he was racially abused and also assaulted by shop staff and their friends who were outside the shop. The report was filed with the rational 'victim supports police action but evidential difficulties prevent further action.'

20.06.21 – customer assaulted by youths outside the premises after there had been an argument in the premises. The victim states that the 'shop keeper' used a racial slur against him. Although there is a counter claim by the 'shop keeper.' The report was filed with the following rational – 'crime investigated as far as reasonably possible, case closed pending further investigation opportunities becoming available.'

Two very similar reported incidents by 2 different victims only a month apart.

West Midlands Police are concerned by the continued poor or lack of management of these premises considering the amount of visits and advice that has been given directly to the premises licence holder together with previous discussions around best practice by West Midlands Police Licensing Team.

West Midlands Police feel they have no option other than to bring this premises to the attention of the licensing subcommittee due to the on-going serious nature of the incidents at the premises.

West Midlands Police would ask the committee to consider all options open to them when reviewing the premises licence.

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

Please tick ✓ yes

☐

If yes please state the date of that application

Day Month Year

1	1	1	1	1	1	1	1	1	1
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If you have made representations before relating to the premises please state what they were and when you made them

Please tick ✓ yes

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature

Date 22/02/2022

Capacity Supr 2693

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Central Licensing Team
Lloyd House
Snow Hill Queensway
Birmingham City Centre

Post town
Birmingham

Post Code
B4 6DG

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.

LICENSING ACT 2003**PREMISES LICENCE****Premises Licence Number:****3962 / 2****Part 1 - Premises details:**

Postal address of premises, or if none, ordnance survey map reference or description Booze Burst Ltd 321-323 Fox Hollies Road Acocks Green	
Post town: Birmingham	Post Code: B27 7PS
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 07:00 - 23:00 M2

The opening hours of the premises Monday - Sunday 07:00 - 23:00

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

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Mr Ghulam Musadaq Paswal	
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 Ghulam Musadaq Paswal	
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 8048	Issuing Authority BIRMINGHAM CITY COUNCIL

Dated 15/02/2014

David Kennedy
Principal 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 premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol:-

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 a holographic mark.

Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

The Premises Licence holder will ensure that all staff are trained with regard to the Licensing Act 2003 specifically relating to the sale of alcohol, and on compliance with the conditions attached to the premises licence. A log of this training will be maintained and can be inspected by any Responsible Authority on request.

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

The Premises Licence holder will ensure that digital CCTV system with an image download facility is installed on the premises to the reasonable satisfaction of the West Midlands Police. CCTV to be operational at all times the premises is open for licensable activity, images to be held for a minimum of 28 days. Full access to recordings will be given to the Responsible Authorities immediately upon request.

The Premises Licence holder shall ensure that notices stating “No sales of alcohol to persons under 18 years of age” will be displayed at the premises.

The Premises Licence holder shall ensure that notices stating “It is illegal for persons to buy alcohol on behalf of persons under 18 years of age” will be displayed at 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

No enforceable conditions identified from operating schedule.

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

A ‘Challenge 25’ policy will be operated on the premises with notices being displayed on the entrance to the premises and the behind the counter.

The Premises Licence holder shall ensure all staff are trained and regularly refreshed to enforce the ‘Challenge 25’ policy.

The Premises Licence holder shall ensure that all alcohol sale refusals are noted in a refusal register which can be inspected by any Responsible Authority upon request.

The premises will only accept valid forms of identification such as a passport, photo driving licence or a recognised proof of age card.

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



