

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 B

TUESDAY, 19 JULY 2016 AT 10:00 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 **MINUTES**

3 - 6

To note the public section of the Minutes of the last meeting held on 15 March 2016.

To note the public section of the Minutes of the meeting held on 31 May 2016.

4 **LICENSING ACT 2003 PREMISES LICENCE – GRANT HARBORNE KITCHEN, 175 – 177 HIGH STREET, HARBORNE, BIRMINGHAM, B17 9QE**

7 - 68

Report of the Acting Director of Regulation and Enforcement.
N.B. Application scheduled to be heard at 10:00am on Tuesday 19 July 2016.

5 **GAMBLING ACT 2005 VARIATION OF A LICENSED PREMISES GAMING MACHINE PERMIT HUNTERS MOON, 220 COLESHILL ROAD, BIRMINGHAM, B36 8BE**

69 - 100

Report of the Acting Director of Regulation and Enforcement.
N.B. Application scheduled to be heard at 11:30am on Tuesday 19 July 2016

6 **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.

7 **EXCLUSION OF THE PUBLIC**

That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-

Minutes - Exempt Paragraphs 3 and 4

P R I V A T E A G E N D A

1 **MINUTES**

To note the private section of the Minutes of the meeting held on 15 March 2016 and confirm and sign the Minutes as a whole.

To note the private section of the Minutes of the meeting held on 31 May 2016 and to confirm and sign the Minutes as a whole.

2 **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976,
TOWN POLICE CLAUSES ACT 1847, PRIVATE HIRE AND HACKNEY
CARRIAGE DRIVER LICENSES**

Report of the Director of Regulation and Enforcement.

(Paragraphs 1 & 7)

3 **OTHER URGENT BUSINESS (EXEMPT INFORMATION)**

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

LICENSING SUB - COMMITTEE B - 31 MAY 2016
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**MINUTES OF A MEETING OF
LICENSING SUB-COMMITTEE B HELD
ON TUESDAY 31 MAY 2016
AT 1000 HOURS IN COMMITTEE ROOM 1,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Lynda Clinton in the Chair;

Councillors Nawaz Ali and Gareth Moore.

ALSO PRESENT:

Peter Watson – Licensing Section
Angeline Hayles-Henderson – Legal Services
Sarah Stride – Committee Services.

NOTICE OF RECORDING

01/310516 The Chairman advised the meeting that members of the press/public may record and take photographs except where there are confidential or exempt items.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

02/310516 No apologies were submitted.

MINUTES

03/310516 The public Minutes of the meetings held on 23 February 2016 and 8 March 2016 were noted.

OTHER URGENT BUSINESS

04/310516 No items of other urgent business were submitted.

EXCLUSION OF THE PUBLIC

05/270416

RESOLVED:

That in view of the nature of the business to be transacted, which includes exempt information of the category indicated, the public be now excluded from the meeting:-

(Paragraph 1)

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE B, TUESDAY, 15 MARCH 2016
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**MINUTES OF A MEETING OF THE LICENSING
SUB-COMMITTEE B, HELD ON TUESDAY, 15
MARCH, 2016 AT 1000 HOURS, IN COMMITTEE
ROOM 1, COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Lynda Clinton in the Chair.

Councillors Nawaz Ali and Bob Beauchamp

ALSO PRESENT

Peter Watson, Licensing Section
Angeline Hayes-Henderson, Legal Services
Gwin Pountney, Committee Services

01/150316 **NOTICE OF RECORDING**

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

02/150316 **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

Apologies were submitted by Councillor Gareth Moore and Councillor Bob Beauchamp attended as nominee member.

03/150316 **OTHER URGENT BUSINESS**

There was no other urgent business.

04/150316 **EXCLUSION OF THE PUBLIC**

That in view of the nature of the business to be transacted which includes exempt information of the category indicated that the public be now excluded from the meeting:-

Minutes – Exempt Paragraphs 3 and 4

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee B
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Tuesday 19th July 2016
Subject:	Licensing Act 2003 Premises Licence – Grant
Premises:	Harborne Kitchen, 175 – 177 High Street, Harborne, Birmingham, B17 9QE
Ward affected:	Harborne
Contact Officer:	David Kennedy, Principal Licensing Officer, 0121 303 9896, licensing@birmingham.gov.uk

1. Purpose of report:

To consider relevant representations that have been made in respect of an application for a Premises Licence which seeks to permit the Sale of Alcohol (for consumption both on and off the premises) to operate 08:00am until 12:00midnight (Sunday to Thursday) and 08:00am until 01:00am (Friday and Saturday).

To permit the provision of Late Night Refreshment to operate from 11:00pm until 12:00midnight (Sunday to Thursday) and 11:00pm until 01:00am (Friday and Saturday).

Premises to remain open to the public 08:00am until 12:30am (Sunday to Thursday) and 08:00am until 01:30am (Friday and Saturday).

Other dates and times as specified in the application.

2. Recommendation:

To consider the representations that have been made and to determine the application.

3. Brief Summary of Report:

An application for a Premises Licence was received on 31st May 2016 in respect of the Harborne Kitchen, 175 – 177 High Street, Harborne, Birmingham, B17 9QE.

Representations have been received from Planning, as a responsible authority, and from other persons.

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.

<p>5. Relevant background/chronology of key events:</p> <p>Jamie Desogus applied on 31st May 2016 for the grant of a Premises Licence for the Harborne Kitchen, 175 – 177 High Street, Harborne, Birmingham, B17 9QE.</p> <p>A representation has been received from Planning, as a responsible authority. See Appendix 1.</p> <p>Representations have been received from other persons. See Appendices 2 & 3.</p> <p>The application is attached at Appendix 4.</p> <p>Site Location Plans at Appendix 5.</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. 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; and d. The protection of children from harm.
<p>6. List of background documents:</p> <p>Copy of the representations as detailed in Appendices 1 – 3</p> <p>Application Form, Appendix 4</p> <p>Site Location Plans, Appendix 5</p>
<p>7. Options available</p> <p>To Grant the licence in accordance with the application.</p> <p>To Reject the application.</p> <p>To Grant the licence subject to conditions modified to such an extent as considered appropriate.</p> <p>Exclude from the licence any of the licensable activities to which the application relates.</p> <p>Refuse to specify a person in the licence as the premises supervisor.</p>

Appendix 1

ENTERED SY.

From: Ben Plenty
Sent: 14 June 2016 10:38
To: Licensing
Subject: 175-177 High Street, Harborne, B17 9QE - current licence application

Please note that condition 3 of planning application 2015/00649/PA limits the hours of use to 23:30;

"Condition 3) Limits the hours of use

The premises shall only be open for customers between the hours of 06:30-23:30.

Reason: In order to define the permission and safeguard the amenities of occupiers of premises/dwellings in the vicinity in accordance with Paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the National Planning Policy Framework."

However, the license application seeks to serve alcohol until 1am.

I have informed the applicant, Jamie Desogus, of the conflict and advised him that if the premises open beyond 23:30 it would be in breach of condition 3 and would be subject to enforcement investigation.

Please align the hours of the license to 23:30 to prevent this conflict occurring.

Regards

Ben Plenty
Principal Planning Officer - Edgbaston

Appendix 2

ENTG 200
54

From:
Sent: 14 June 2016 21:21
To: Licensing
Subject: Representation against granting a late-night licence

Dear Licensing Authority,

I write with regard to application ref. 96193 for licence 9546 by Mr Jamie Desogus for Harborne Kitchen, 175-177 Harborne High Street, B17 9QE for the Sale of alcohol (M3) and late night refreshment (L), dated 31st May 2016, further to my email of 13th June 2016 and Mr Shaid Yasser's speedy response of 14th June, for which I am grateful.

I wish to make representation against the granting of a late night refreshment licence for the reason of the prevention of public nuisance.

The above restaurant adjoins a residential area. The continuation of business at this restaurant in the late night and early morning would have a negative impact on homeowners in the vicinity. Such an observation is in accordance with Paragraphs 3.8 and 3.10 of the Council's Urban Development Plan 2005. Furthermore, the negative impact of the restaurant on local residents was made manifest between the months of September and December 2015 when amplified live music was performed in a temporary marquee at the back of the building. On the basis of this, noise from the open windows at the back of the restaurant in the late night and early morning would have a deleterious effect on sleep for local residents, including young children.

The approval granted by planning applications 2014/04086/PA (for change of use from a retail shop to a restaurant) and 2015/00649/PA (for the construction of a new restaurant) both specified the condition that business will not be carried out in the restaurant after 23:30. I accept that, according to paragraph 6.10 of the Birmingham City Council Statement of Licensing Policy (July 2015), the Licensing Authority is not bound by the decisions of the Planning Authority. Nevertheless, the reason for the conditions imposed by the Planning Authority (because of the negative impact of late-night opening on occupiers of neighbouring buildings) match the requirement of the Licensing Authority to ensure the prevention of public nuisance. I believe that this constitutes grounds for representation against a license.

I will be grateful for any guidance you are able to offer on this matter.

Yours sincerely,

Regent Road,
Harborne, B17

From:
Sent: 13 June 2016 20:43
To: Licensing
Cc:
Subject: Licence application 9546
Attachments: Document-4342F57BFF4F56A3A24AC76E8D1007AB.pdf

Dear Licensing Authority,

I write with regard to the application for licence 9546 by Mr Jamie Desogus for Harborne Kitchen, 175-177 Harborne High Street, B17 9QE for the Sale of alcohol (M3) and late night refreshment (L), dated 31st May 2016.

The application states that the hours of operation of the premises are 0800-0030 Sunday to Thursday and 0800 to 0130 Friday and Saturday.

However, the planning application for Harborne Kitchen (a copy of which I attach) granted planning permission for the restaurant on condition that "The premises shall only be open for customers between the hours of 06:30-23:30" (page 6, paragraph 8.3).

I therefore wish to make representation against the granting of a late night refreshment licence to this building, and ask that the license to serve alcohol is restricted to the opening hours specified in the attached planning application.

I would be grateful for confirmation that you have received this email.

Yours sincerely,

Regent Road,
Harborne, B17

Delegated Date:	15/04/2015	Application Number:	2015/00649/PA
Accepted:	29/01/2015	Application Type:	Full Planning
Target Date:	26/03/2015		
Ward:	Harborne		

Walter Smith Butchers, 177 High Street, Harborne, Birmingham, B17 9QE

Change of use from Retail (A1) to Restaurant/ Cafe (A3), erection of first floor and single storey rear extensions, installation of new shopfront and ancillary cooking school to first floor level

Applicant:	JJK Developments Ltd c/o Agent
Agent:	Brophy Riaz & Partners Ltd 48a Hylton Street, Jewellery Quarter, Birmingham, B18 6HN

Recommendation

Approve Subject To Conditions

1. Proposal

- 1.1. The application seeks to change the use of a former butcher shop (Use Class A1) to a restaurant with ancillary cooking classes at first floor level.
- 1.2. The proposed opening times would be 06:30 to 23:30 Sunday to Friday and 06:30 to 00:00 on Saturdays.
- 1.3. A single storey and first floor extension are proposed to the rear elevation, following the removal of series of single and two storey buildings which currently occupy part of the rear curtilage. The single storey extension would measure 3m high, 23.2m in length and 7.4m in width. It would be constructed of materials to match the existing building, with a flat roof and would include a lantern roof light centrally positioned above this. The first floor rear extension would be constructed of materials to match would have a pitched roof and would measure 5.3m in height, 5.1m in width and 6.6m in length.
- 1.4. A new shop front is proposed, which would incorporate a stall riser and fascia of a similar size and position as the existing, and relocated entrance door. A new flue is proposed on the 1st floor element, of the rear elevation.
- 1.5. No parking provision has been allocated to this application.
- 1.6. The proposed restaurant would provide 68 covers.

2. Site & Surroundings

- 2.1. The site is a currently vacant two storey pre-war mid terraced property which was previously in use as a butchers shop (Use Class A1). The site is located on Harborne High Street which is identified as being within Harborne District Centre in the Shopping and Local Centres SPD.
- 2.2. The units immediately adjacent to the site are 179 High Street which is currently in use as dry cleaners (Sui Generis) and 173 High Street which is in use as a mobile phone shop (Use Class A1).
- 2.3. Other similar uses in close proximity to the site include The Junction Public House at 212 High Street, Zizzi Restaurant at 183 High Street, Buonissimo Restaurant at 1 Albany Road and The Proverbial Public House at 194 High Street.
- 2.4. The location of the site is well served by public transport and I note the siting of a bus stop to the frontage of 173 High Street.
- 2.5. Parking restrictions are in place to the front of the site by way of a single yellow line, serving a bus stop. To the frontages of 163 onwards short stay parking is provided up to a maximum of 1 hour. Additional car parks and on street parking is available within a short walking distance of the site.

3. Relevant Planning History

- 3.1. 13/08/2014 – 2014/04086/PA – Proposed change of use from retail (A1) to restaurant/cafe (A3).
Approved-conditions

4. Consultation/PP Responses

- 4.1. Regulatory Services – No objection, subject to conditions requiring details of extraction equipment, a scheme of noise insulation, noise levels for plant and machinery and subject to an hours condition (06:30 – 23:30 daily).
- 4.2. West Midlands Police – No objection
- 4.3. Transportation – No objection
- 4.4. Birmingham Public Health – No response
- 4.5. Local occupiers, Ward Councillors, and Residents/Traders Associations notified.
- 4.6. Two responses received from a local residents who raised concerns whilst not object to the proposal. The concerns related to:
- Works to be carried during sociable hours.
 - Potential disturbance to neighbours from the proposed terrace by way noise and smoking customers to the proposed terrace.
- 4.7. The Access Committee for Birmingham commented that the premises should be easily accessible to disabled customers.

5. Policy Context

5.1. The following local policies are applicable:

- Birmingham UDP (2005)
- Draft Birmingham Development Plan (2013)
- Shopping and Local Centres SPD (2012)
- Places For All (2001)

The following national policies are applicable:

- National Planning Policy Framework (NPPF) (2012)

6. Planning Considerations

- 6.1. The main issues to consider in assessing this proposal are whether the principle of the proposed use would be acceptable, the impact on the amenity of the adjacent occupiers and area, and the impact on highway safety.

Policy Considerations

- 6.2. The NPPF contains a presumption in favour of sustainable development. It seeks to promote competitive town centre environments that provide customer choice and a diverse retail offer which reflects the individuality of town centres. It advises that Local Planning Authorities should pursue policies to support the viability and vitality of town centres.
- 6.3. Paragraphs 8.6 and 8.7 of the Birmingham UDP set out the criteria for the assessment of applications for cafés/restaurants/hot food takeaways, seeking to ensure that they are located in commercial areas where any potential adverse impact on residents, on highway safety and on the vitality and viability of the shopping parade can be minimised.
- 6.4. Paragraph 7.24 of the Birmingham UDP recognises that uses such as restaurants now have an established place within retail centres. It states that uses that complement the retail function of the centre should be encouraged, subject to the need to ensure that an over-concentration of such uses does not create areas of a dead frontage. Such uses should also not prejudice the viability of the centre overall.
- 6.5. The Shopping and Local Centres SPD provides guidance aimed at encouraging new investment into centres and to protect and enhance their vibrancy and viability.

Principle of the Use

- 6.6. The site is located within a defined District Centre namely Harborne District Centre as identified in the Shopping and Local Centres SPD. Paragraph 8.7 of the Birmingham UDP states that restaurant uses are better being directed to commercial areas providing shopping facilities.
- 6.7. Policies 1, 2 and 5 contained within the adopted policy guidance Shopping and Local Centres are critical for establishing the principle of the proposed use of the site as a

restaurant. The site falls within the Primary Shopping (PSA) Area of Harborne District Centre.

- 6.8. Policy 1 of the Shopping and Local Centres SPD requires a minimum of 55% of all units within the PSA to be in A1 retail use. The Council's survey of the PSA undertaken in March 2014 revealed that 62.7% of units on Harborne High Street had retail use (including vacant units). Therefore the loss of 177 High Street, as a retail unit, would not result in the 55% minimum requirement being undermined therefore this proposal meets the requirements of Policy 1.
- 6.9. Policy 2 of the Shopping and Local Centres SPD requires changes of use from retail to not retail uses within the PSA to avoid an over concentration of such uses and clustering of similar non-retail uses. Further consideration should be afforded to impact of the proposal on the character and function of the centre to avoid a reduction of footfall generated and areas of dead frontage due to varied opening hours.
- 6.10. A survey of 28 units between Albany Road and Station Road along the frontage of the site (including the application site) revealed that 11 units out of 28 are in use for non-retail purposes with 5 units in use as A3 uses (two of which are coffee shops). I further note that a further two public house are in close proximity being The Junction and The Proverbial. I am satisfied that the predominant use within the PSA is retail and I do not consider that the loss of this retail unit would result in an over concentration of A3 uses within this PSA.
- 6.11. Policy 5 of the Shopping and Local Centres SPD sets out similar principles to Policy 2 however its fundamental aim is to protect the amenity for residents living within a District Centre. I am satisfied that the first floor levels above 173 and 179 are not currently in use for residential purposes, and such the proposed use as a restaurant would not impact on residential amenity in either the application site or in the neighbouring units.
- 6.12. The proposed cooking classes as shown at first floor level would be run by the same operator of the proposed restaurant. The service would be available for customers to book sessions, by mutual agreement between the restaurant and prospective customer. Restaurant staff would undertake these training sessions by prior arrangement only. I consider that the proposed cooking lessons would be ancillary to the main use as a restaurant and would not constitute a secondary use on the site.
- 6.13. I am satisfied that the proposed use of the property as a restaurant would comply with policies outlined in the Shopping and Local Centres SPD and as such would establish the principle of the proposed use.

Impact on Local Amenity

- 6.14. The site is located is within an established district centre with a variety of uses which contribute to both day and night time uses and as such I would not envisage further harm to the amenity of local residents in the area.
- 6.15. Regulatory Services have raised no objection to the proposed change of use subject to the applicant providing details of, noise insulation and subject to the premises being closed by 23:30. I note that no residential uses exist either above the application nor in the adjacent properties, therefore I do not consider that a scheme of noise insulation would be necessary. I do consider that a restriction on opening

hours should be applied to prevent undue harm on local amenity. I note that the applicant seeks consent for opening until midnight on Saturdays, but consider that this would be inappropriate, in line with advice from EPU and I would recommend that the premises should be closed by 23:30 as per the guidance in paragraph 8.7 of the Birmingham UDP. Regulatory Services have further requested details to be provided of the proposed extraction equipment and an appropriate condition is recommended to secure this. An amended plan has been submitted which demonstrates that the flue can successfully be installed at least 1m above the highest window. However, I note that the first floor would not contain a residential use.

- 6.16. A proposed outdoor seating was originally proposed however I considered this outdoor extension to the restaurant to be unacceptable due to late night noise disturbance to residents located on Regent Road. An amended plan has been received with has now removed this outdoor area and I consider it appropriate and necessary to attach a condition which limits the restaurant use to inside the building only.

Impact on Highway Safety

- 6.17. Transportation Development have made no objection and have acknowledged that the traffic and parking demand generated by the proposed restaurant is likely to increase from the previous retail use. However, in this busy District Centre it is not considered that any increase would have a significant impact on highway safety. It is further noted by Transportation Development that this location has very good public transport links and a number of parking options within short walking distance.
- 6.18. I note the comments from the Access Committee for Birmingham concerning access for disabled customers. The proposal show level access into the unit, I have shared these views with the applicant who has noted this and has expressed an intention to install power assisted doors to provide inclusive access to all customers.

General Alterations

- 6.19. The application proposes significant extensions to the rear of the property, including a ground floor element that would fill the majority of the plot. Whilst the extensions are substantial, I note that they would in part replace a series of existing buildings of varying height and depth. The adjoining uses are commercial at ground floor level and the first floor is set in from the boundary. I note that the first floor units to 173 and 179 High Street are not in use as residential accommodation. The City's 45 Degree Code has been given due consideration however given the non-residential nature of the neighbouring properties I do not consider this to be a relevant on this application. In conclusion, I consider that the appearance of the extensions and the alterations to the shop front to be acceptable with no adverse impact on the visual amenity of the area.

7. Conclusion

- 7.1. I consider that the proposed use of the premises would be positive in that it would return a currently vacant building within the PSA of Harborne District Centre. The proposal would contribute to vitality and viability of the centre and would not result in clustering or over concentration of A3 uses. I therefore consider the application demonstrates sustainable development and such I recommend that planning approval should be granted.

8. Recommendation

8.1. Approve with conditions

-
- | | |
|---|--|
| 1 | Requires the scheme to be in accordance with the listed approved plans
The development hereby approved shall be implemented in accordance with the details submitted with the application and shown on drawing numbers 2869-01-G ('the approved plans')
Reason: In order to define the permission in accordance with Paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the National Planning Policy Framework. |
| 2 | Requires the prior submission of extraction and odour control details
No development shall take place until details of the extract ventilation and odour control equipment, including details of any noise levels, noise control and external ducting has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and thereafter maintained.
Reason: In order to secure the satisfactory development of the application site and safeguard the amenities of occupiers of premises/dwellings in the vicinity in accordance with Paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the NPPF |
| 3 | Limits the hours of use
The premises shall only be open for customers between the hours of 06:30-23:30.
Reason: In order to define the permission and safeguard the amenities of occupiers of premises/dwellings in the vicinity in accordance with Paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the National Planning Policy Framework. |
| 4 | Limits the approved activity to within the building only
The restaurant use shall not take place anywhere on the site except within the building(s).
Reason: In order to safeguard the amenities of occupiers of premises/dwellings in the vicinity in accordance with Paragraphs 3.8 and 3.10 of the Birmingham UDP 2005 and the National Planning Policy Framework. |
| 5 | Limits the approval to 3 years (Full)
The development hereby permitted shall be begun before the expiration of (3) years from the date of this permission.
Reason: In order to comply with Section 91 of the Town and Country Planning Act 1990 (as amended) and the National Planning Policy Framework. |
-

Case Officer: Martin Mackay

Appendix 3

From:
Sent: 28 June 2016 11:34
To: Licensing
Subject: application for license for Harborne Kitchen, 175-177 High Street, Harborne, B17 9QE

>
> To whom it may concern,
>
> Re: application for license for Harborne Kitchen, 175-177 High Street, Harborne, B17 9QE
>
> As local residents, we are writing to express concern regarding the above application. The owners of "Harborne Kitchen" had a previous "pop up" at these premises (the Butcher's Social) about which we had complained to the council due to them playing loud, amplified live music until late; as these events were held outside in the garden, the noise travelled to neighbouring streets. We are therefore concerned that the planned licensing hours being so late may lead to noise disturbance. We would also be very concerned about them being granted a license to play music, which we were previously informed by the council they required in order to legally play amplified music.
>
> We were advised by Jo Hickman, environmental health officer, to raise these concerns when the business applied for a license (ref WK/008140759).
>
> Your sincerely,
>
>
>
>

96193

~~23/5/16~~ - 24/06/16
01/06/16 25/06/16

BIRMINGHAM CITY COUNCIL

**Application for a premises licence to be granted
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/We JAMIE DESOGUS

(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description	
HARBORNE KITCHEN 175-177 HIGH STREET HARBORNE	
Post town	BIRMINGHAM
Postcode	B17 9QE

£190.00
009490/000104
31/5/16

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£24,500

Part 2 – Applicant Details

Please state whether you are applying for a premises licence as

Please tick as appropriate

- | | |
|---|---|
| a) an individual or individuals * | <input checked="" type="checkbox"/> please complete section (A) |
| b) a person other than an individual * | |
| i. as a limited company | <input type="checkbox"/> please complete section (B) |
| ii. as a partnership | <input type="checkbox"/> please complete section (B) |
| iii. as an unincorporated association or | <input type="checkbox"/> please complete section (B) |
| iv. other (for example a statutory corporation) | <input type="checkbox"/> please complete section (B) |

- c) a recognised club ☐ please complete section (B)
- d) a charity ☐ please complete section (B)
- e) the proprietor of an educational establishment ☐ please complete section (B)
- f) a health service body ☐ please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales ☐ please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England ☐ please complete section (B)
- h) the chief officer of police of a police force in England and Wales ☐ please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or ☒

I am making the application pursuant to a

statutory function or ☐

a function discharged by virtue of Her Majesty's prerogative ☐

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname DESOGUS			First names JAMIE		
I am 18 years old or over				<input checked="" type="checkbox"/> Please tick yes	
Current postal address if different from premises address					
Post town			Postcode		
Daytime contact telephone number					
E-mail address (optional)					

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
I am 18 years old or over				<input type="checkbox"/> Please tick yes	
Current postal address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3 Operating Schedule

When do you want the premises licence to start?

DD	MM	YYYY
<input type="text"/>	<input type="text"/>	<input type="text"/>

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD	MM	YYYY
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please give a general description of the premises (please read guidance note 1)

RESTAURANT WITH A BAR- PLEASE REFER TO THE LICENSING PLAN FOR THE LAYOUT

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick any that apply

- | | |
|---|--------------------------|
| a) plays (if ticking yes, fill in box A) | <input type="checkbox"/> |
| b) films (if ticking yes, fill in box B) | <input type="checkbox"/> |
| c) indoor sporting events (if ticking yes, fill in box C) | <input type="checkbox"/> |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/> |
| e) live music (if ticking yes, fill in box E) | <input type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F) | <input type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G) | <input type="checkbox"/> |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/> |

Provision of late night refreshment (if ticking yes, fill in box I) ☒

Supply of alcohol (if ticking yes, fill in box J) ☒

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 6)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 2)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)			
Mon						
Tue						
Wed			State any seasonal variations for performing plays (please read guidance note 4)			
Thur						
Fri						
Sat			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 5)			
Sun						

B

Films Standard days and timings (please read guidance note 6)			Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 2)		Indoors <input type="checkbox"/>
					Outdoors <input type="checkbox"/>
Day	Start	Finish			Both <input type="checkbox"/>
Mon			Please give further details here (please read guidance note 3)		
Tue					
Wed			State any seasonal variations for the exhibition of films (please read guidance note 4)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 6)			<u>Please give further details</u> (please read guidance note 3)
Day	Start	Finish	
Mon			
Tue			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 4)
Wed			
Thur			
Fri			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 5)
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (please read guidance note 2)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)			
Mon						
Tue						
Wed			State any seasonal variations for boxing or wrestling entertainment (please read guidance note 4)			
Thur						
Fri			Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)			
Sat						
Sun						

E

Live music Standard days and timings (please read guidance note 6)			<u>Will the performance of live music take place indoors or outdoors or both – please tick</u> (please read guidance note 2)		Indoors <input type="checkbox"/>
					Outdoors <input type="checkbox"/>
					Both <input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon					
Tue					
Wed			<u>State any seasonal variations for the performance of live music</u> (please read guidance note 4)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat					
Sun					

F

Recorded music Standard days and timings (please read guidance note 6)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 2)		Indoors <input type="checkbox"/>
					Outdoors <input type="checkbox"/>
Day	Start	Finish			Both <input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 3)		
Tue					
Wed			<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 4)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat					
Sun					

G

Performances of dance Standard days and timings (please read guidance note 6)			<u>Will the performance of dance take place indoors or outdoors or both – please tick</u> (please read guidance note 2)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)			
Mon						
Tue						
Wed			<u>State any seasonal variations for the performance of dance</u> (please read guidance note 4)			
Thur						
Fri						
Sat			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 5)			
Sun						

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	Will this entertainment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			Please give further details here (please read guidance note 3)		
Wed					
Thur			State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4)		
Fri					
Sat			Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sun					

I

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)		Indoors	<input checked="" type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)			
Mon	2300	0000				
Tue	2300	0000	State any seasonal variations for the provision of late night refreshment (please read guidance note 4)			
Wed	2300	0000	State any seasonal variations for the provision of late night refreshment (please read guidance note 4)			
Thur	2300	0000	Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list (please read guidance note 5) New Years Eve from 2300- 0200			
Fri	2300	0100				
Sat	2300	0100				
Sun	2300	0000				

J

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption – please tick (please read guidance note 7)	On the premises <input type="checkbox"/>
				Off the premises <input type="checkbox"/>
				Both <input checked="" type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4)	
Mon	0800	0000		
Tue	0800	0000		
Wed	0800	0000		
Thur	0800	0000	Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5) New Years Eve from 0800- 0200	
Fri	0800	0100		
Sat	0800	0100		
Sun	0800	0000		

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor:

Name JAMIE DESOGUS	
Address 	
Postcode	
Personal licence number (if known)	
Issuing licensing authority (if known)	

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8).
 NONE

L

Hours premises are open to the public Standard days and timings (please read guidance note 6)			<u>State any seasonal variations</u> (please read guidance note 4)
Day	Start	Finish	
Mon	0800	0030	<p><u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 5)</p> <p>New Years Eve from 0800- 0230</p>
Tue	0800	0030	
Wed	0800	0030	
Thur	0800	0030	
Fri	0800	0130	
Sat	0800	0130	
Sun	0800	0030	

M Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 9)

As other Statutory obligations apply no further conditions are deemed appropriate under The Licensing Act 2003

b) The prevention of crime and disorder

Digital CCTV will be installed at the premises to the reasonable satisfaction of West Midlands Police. The System must be operational at times when licensable activity is taking place. The system must have an image download capability. All recorded images must be kept for a minimum of **28** days. Full access to recordings must be given to Responsible Authorities immediately upon request

c) Public safety

As other Statutory obligations apply no further conditions are deemed appropriate under The Licensing Act 2003

d) The prevention of public nuisance

As other Statutory obligations apply no further conditions are deemed appropriate under The Licensing Act 2003

e) The protection of children from harm

A challenge 25 policy will be operated by the premises with notices informing customers of the policy being displayed within the premises with at least 1 notice displayed behind the Bar. Staff must be trained on this policy. The staff will be regularly reminded/ trained to enforce the challenge 25 policy

All alcohol sale refusals will be noted in a refusals register which can be inspected by a Responsible Authority on request.

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee. ☒
- I have enclosed the plan of the premises. ☒
- I have sent copies of this application and the plan to responsible authorities and others where applicable. ☒
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable. ☒
- I understand that I must now advertise my application. ☒
- I understand that if I do not comply with the above requirements my application will be rejected. ☒

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING 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 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant's solicitor or other duly authorised agent (see guidance note 11).
If signing on behalf of the applicant, please state in what capacity.

Signature	<i>Kenneth Curtis & Co</i>	
Date	<i>27th May 2016</i>	
Capacity	<i>Solicitors</i>	

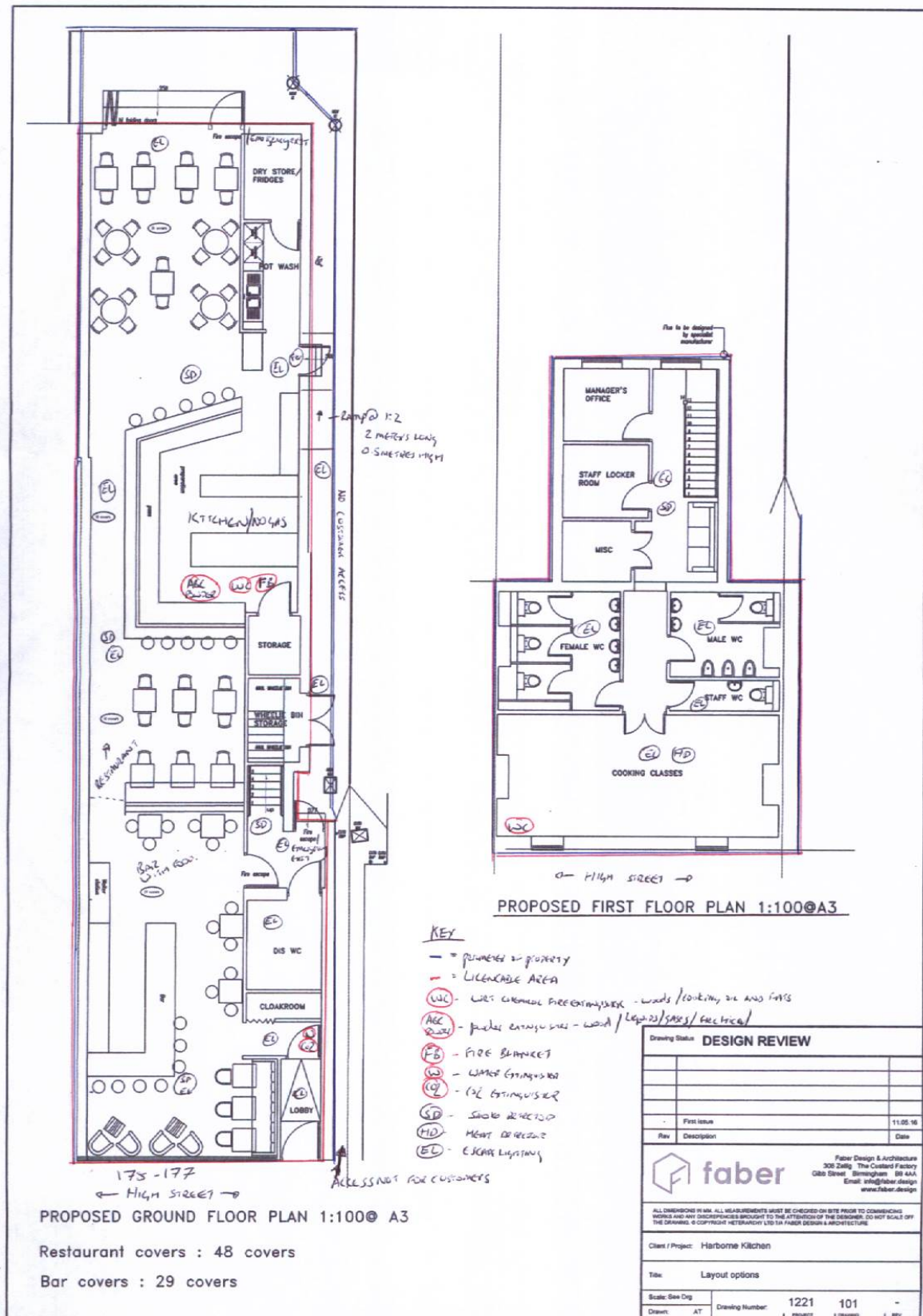
For joint applications, signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

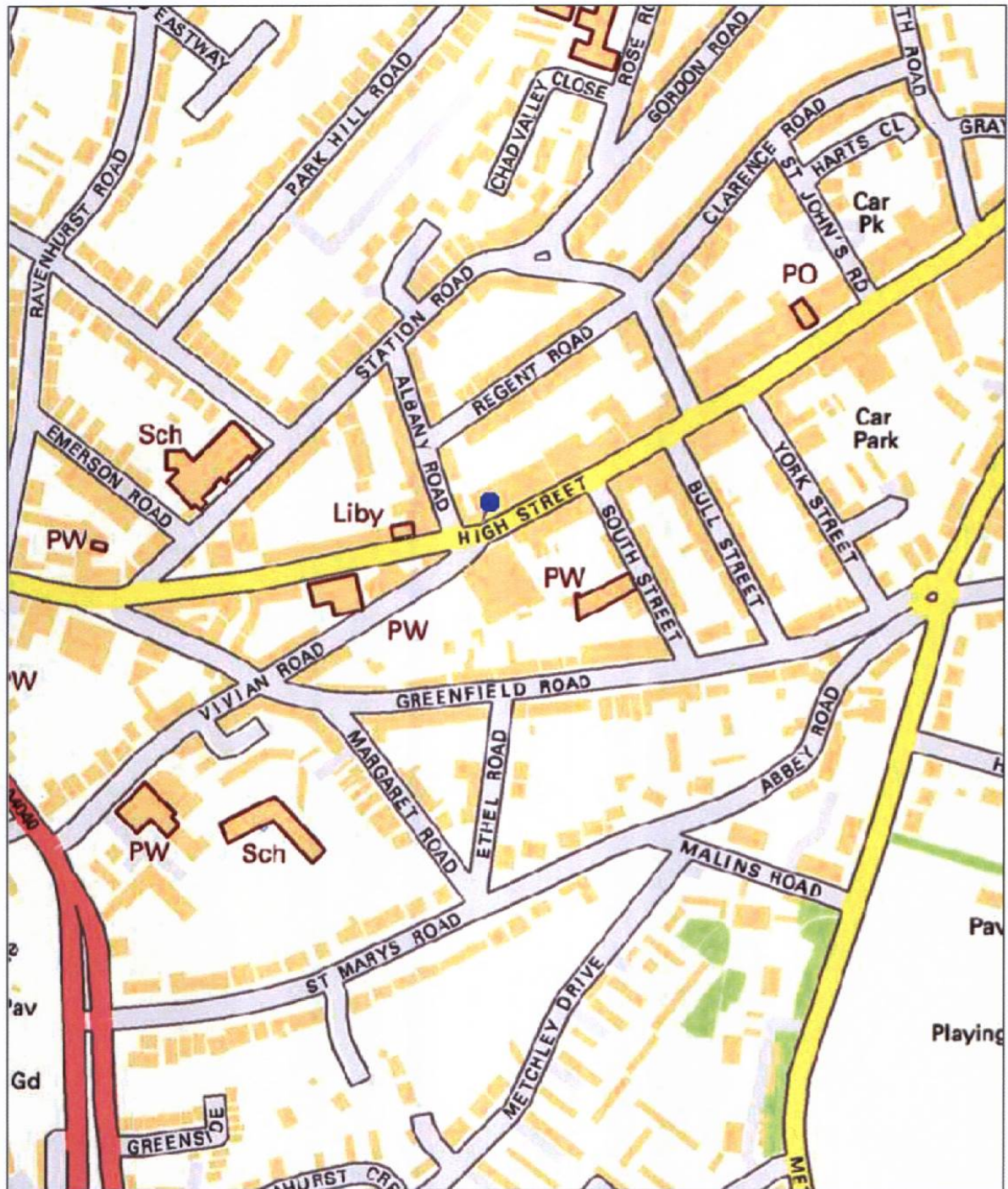
Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13) ADRIAN CURTIS KENNETH CURTIS & CO 88 ALDRIDGE ROAD PERRY BARR			
Post town	BIRMINGHAM	Postcode	B42 2TP
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			

Notes for Guidance

1. Describe the premises, for example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
3. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, each of the applicant or their respective agent must sign the application form.
13. This is the address which we shall use to correspond with you about this application.





Map Created By:

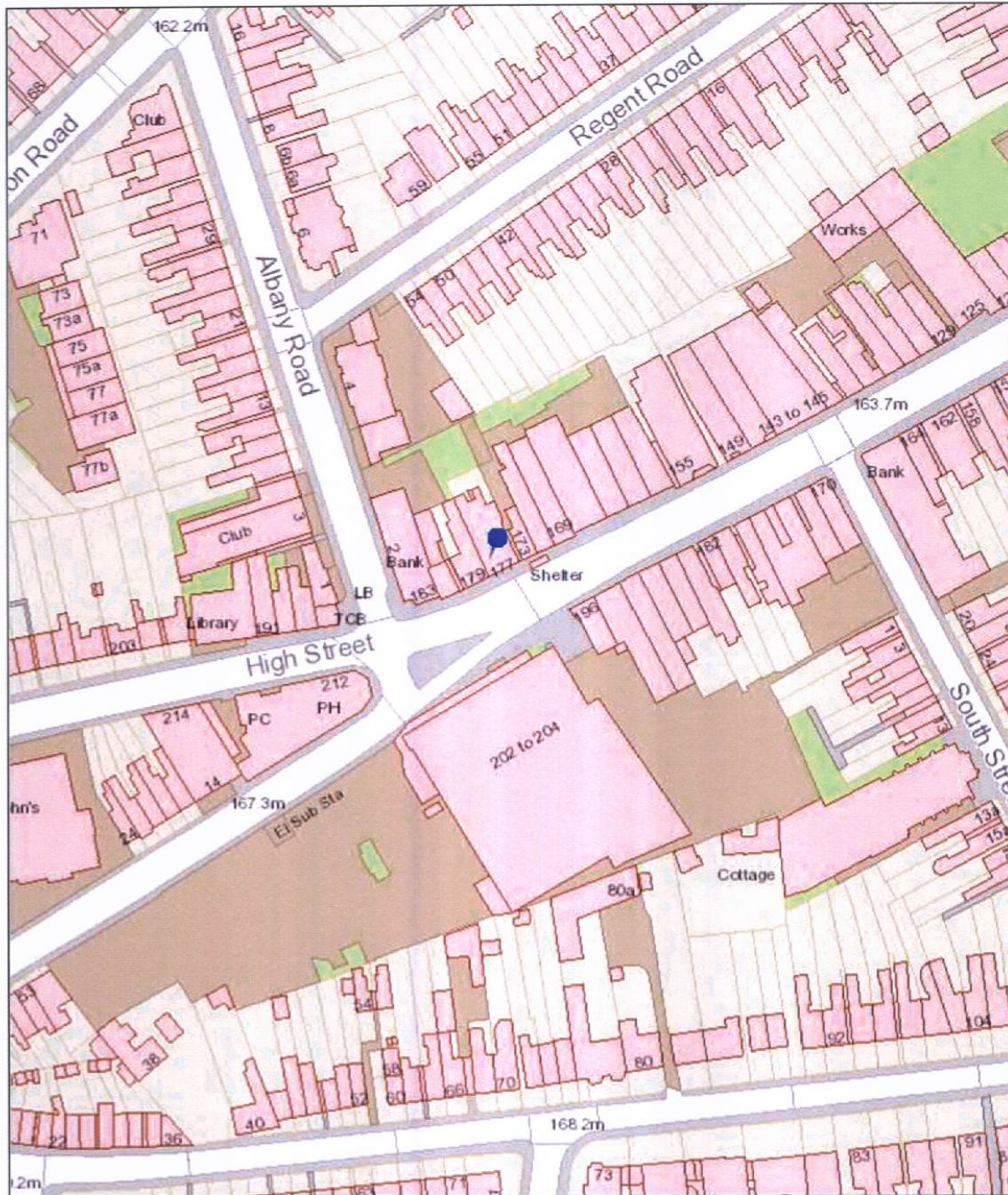
Date of Map Creation: 28/06/2016

Notes



Scale:
1:4,000

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Map Created By:

Date of Map Creation: 28/06/2016

Notes



Scale:
1:1,250

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Stage 2

SCHEME DESIGN

Harborne Kitchen

































Lunch

Available Wednesday - Saturday 12pm-2pm

2 Course - £15 // 3 Course £20

Start

Curried pollock, braised lentils, cauliflower veloute

or

Beef shin and pork collar meat balls, home made spaghetti

Main

Seared pork belly, rhubarb, sweet potato, black garlic, jus gras

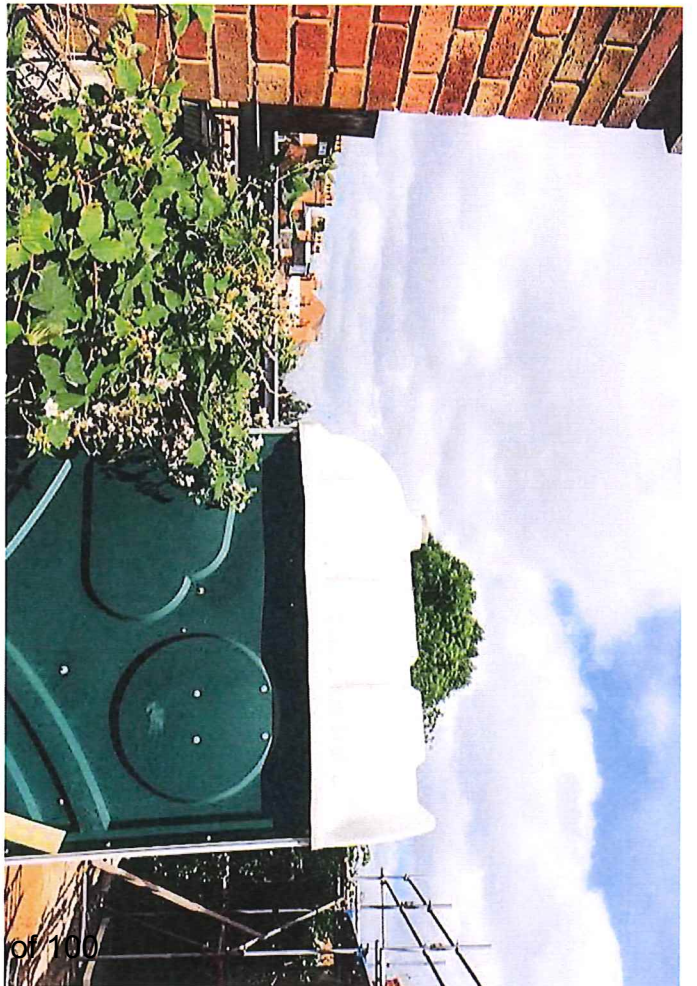
or

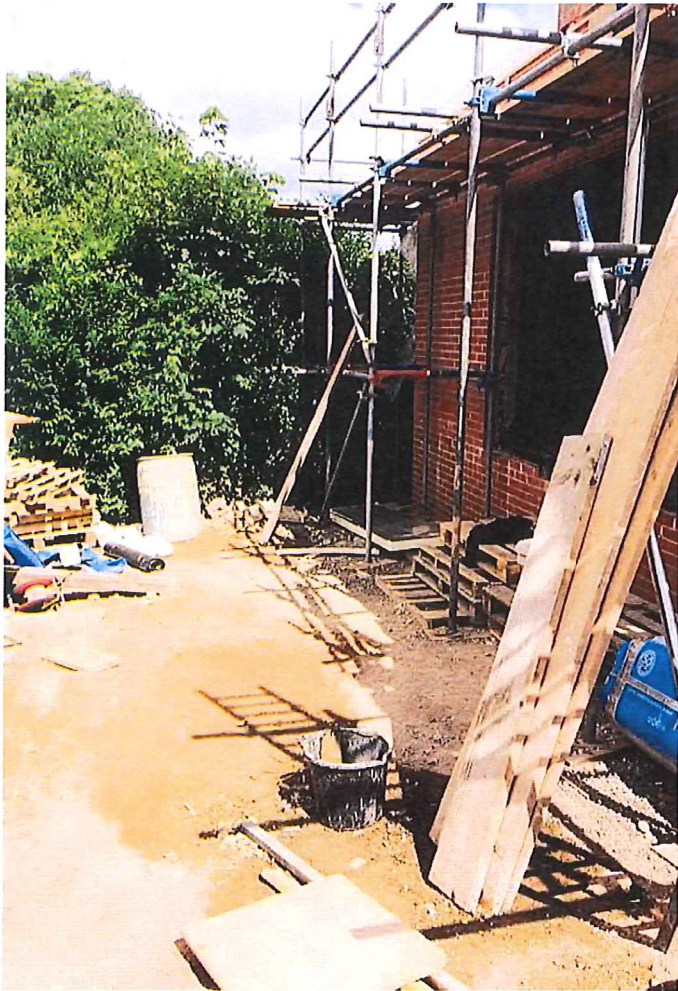
Fermented pearl barley risotto, goats curd, broad beans, wood mushrooms

Dessert

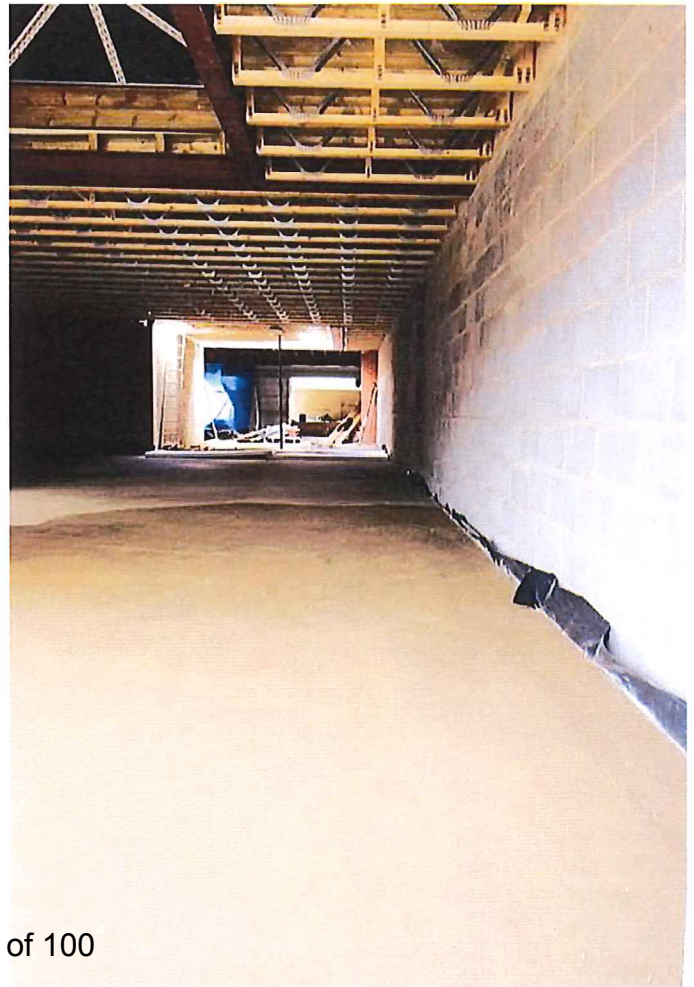
Apple tart tatin, vanilla ice creme











Tasting 6

50 Per person / 40 pairing

Example only

Snacks

Sour Dough, roast yeast butter

Asparagus, lardo, crispy onion, egg yolk 62, oregano

Smoked rabbit and duck terrine, mango, peanut, Chablis

Langoustine, baby springs, pigs ear, almond and chive emulsion

Vennison loin, king cabbage, celeriac, arabica coffee and butter
sauce, chocolate

Yoghurt sorbet, grapefruit, corriander and mint

Chocolate souffles, cherry sorbet, pistachio, vanilla cream

Cola tangs

Report to:	Licensing Sub Committee B
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Tuesday 19th July 2016
Subject:	Gambling Act 2005 Variation of a Licensed Premises Gaming Machine Permit
Premises	Hunters Moon, 220 Coleshill Road, Birmingham, B36 8BE
Ward affected:	Hodge Hill
Contact Officer	David Kennedy, Principal Licensing Officer, 0121 303 9896, licensing@birmingham.gov.uk

1. Purpose of report:
<p>Officers have delegated authority to Grant Permits in respect of 4 Licensed Premises Gaming Machines, Category C & D in an Alcohol Licensed Premises.</p> <p>This application seeks permission to operate: 6 Category C Gaming Machines (the number currently permitted is 5), and; 2 Category D Machines (no change).</p>

2. Recommendation:
<p>The Sub Committee is requested to consider an application to operate a total of 8 Gaming Machines on Alcohol Licensed premises.</p>

3. Brief Summary of Report:
<p>An application for the variation of a Licensed Premises Gaming Machine Permit was received on 16th February 2016.</p>

4. Compliance Issues:
4.1 Consistency with relevant Council Policies, Plans or Strategies:
<p>The report complies with the City Council's Statement of Licensing Principles and the Council's Corporate Plan to improve the standard of all licensed persons, premises and vehicles in the City.</p>

<p>5. Relevant background/chronology of key events:</p> <p>Greene King Brewing and Retailing Limited submitted an application for the variation of a Licensed Premises Gaming Machine Permit on 16th February 2016 for the Hunters Moon, 220 Coleshill Road, Birmingham, B36 8BE.</p> <p>Licensing Sub-Committee B considered this matter on 17th May 2016, and were minded to refuse the application. A copy of the decision is attached at Appendix 1.</p> <p>In accordance with the provisions of Schedule 13, Paragraph 6 of the Gambling Act 2005 and the Gambling Commission Guidance issued under S25 Gambling Act 2005, the applicant was invited to make oral representations, written representations or both in response to the above.</p> <p>The application, including supplementary information in support of the application, is attached at Appendix 2.</p> <p>On 8th July 2016, the applicant submitted further information in support of the application. A copy of this information is attached at Appendix 2a.</p> <p>Birmingham City Council Licensing Enforcement visited the premises on 24th February 2016, and initially objected to the application however at the Hearing on 17th May 2016 the Licensing Enforcement Officer withdrew their representation as they were satisfied with the re-siting of the additional Category C Machine.</p> <p>A copy of the current Gaming Machine Permit issued under the Gambling Act 2005, which permits 5 Category C machines and 2 Category D machines, is attached at Appendix 3.</p> <p>Gaming Machine Categories by maximum stake and maximum prizes available, see attached Appendix 4.</p> <p>Site Location Plans at Appendix 5.</p> <p>Where an application for a licensed gaming machine permit is made, the licensing authority shall consider it having regard to the licensing objectives, any relevant guidance issued by the Commission under section 25 and such other matters as they think relevant.</p> <p>The licensing objectives are:</p> <ol style="list-style-type: none"> Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. Ensuring that Gambling is conducted in a fair and open way Protecting Children and other vulnerable persons from being harmed or exploited by gambling.
--

<p>6. List of background documents:</p> <p>Licensing Sub Committee B Decision of 17th May 2016, Appendix 1 Application Form and supporting information, Appendix 2 Current Gaming Machine Permit, Appendix 3 Gaming Machine Categories, Appendix 4 Site Location Plans, Appendix 5</p>
--

<p>7. Options available</p> <ol style="list-style-type: none"> Grant the application Refuse the application Grant the application in respect of; <ol style="list-style-type: none"> A smaller number of machines than is specified in the application A different category of machines from that specified in the application, or both
--



BIRMINGHAM CITY COUNCIL
LICENSING SUB COMMITTEE - B

17 MAY 2016

Hunters Moon, 220 Coleshill Road, Birmingham, B36 8BE

In accordance with the provisions of Schedule 13, Paragraph 6 of the Gambling Act 2005, and the Gambling Commission Guidance issued under S25 Gambling Act 2005, the Sub-Committee are minded to refuse the application by Greene King Brewing and Retailing Limited, for the variation of a Licensed Premises Gaming Machine Permit in respect of Hunters Moon, 220 Coleshill Road, Birmingham, B36 8BE.

In reaching this interim decision, the Sub-Committee was mindful of the promotion of the Gambling Objectives in the Act, particularly Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Sub-Committee's reasons for reaching this interim decision, for an application to vary an existing Licensing Premises Gaming Machine Permit are due to concerns regarding the impact of increasing the number of Category "C" machines from 5 to 6, within the existing layout of the premises.

Members of the Sub-Committee were not persuaded that the re-siting of an existing Category "C" machine further away from the "distraction zone" was sufficient to remove the risk of children, and other vulnerable persons from being harmed or exploited by gambling, particularly with the proposed addition of a further Category "C" machine, albeit in the "bar side" of the premises.

The Sub Committee carefully considered the application, including policies and procedures, put forward by the applicant and the likely impact of the application but were not persuaded at this stage that the applicant would properly promote the Gambling objectives within the Gambling Act 2005, particularly protecting children and other vulnerable persons from being harmed or exploited by gambling.

In accordance with the provisions Schedule 13, Paragraph 6 of the Gambling Act 2005, and the Gambling Commission Guidance issued under S25 Gambling Act 2005, the Sub Committee will invite the applicant to make oral representations, written representations or both in response to the above at a hearing of a Licensing Sub Committee on a date to be communicated to them in writing.

**delete as applicable*

1

At the future Hearing of Licensing Sub Committee, the applicant will also be asked to clarify whether the applicant complies with the Council's Gambling Act Statement of Licensing Principles with regard to:

This authority will also ensure that where category C or above machines are offered in premises to which children are admitted:

- ☐ *all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;*
- ☐ *only adults are admitted to the area where these machines are located;*
- ☐ *access to the area where the machines are located is supervised;*
- ☐ *the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and*
- ☐ *at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.*

In reaching this interim decision, the Sub-Committee has given due consideration to the City Council's Statement of Gambling Principles, the Guidance issued under Section 25 of the Gambling Act 2005 by the Commission, the application for a Licensed Premises Gaming Machine Permit, and the submissions made at the hearing by the applicant.

All parties are reminded that under the provisions contained within Schedule 13 to the Gambling Act 2005, the applicant has the right of appeal against the final decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

V:\Council Regulatory Team\Licensing Committee\Licensing Act\ GA05 Gaming machine permit decision v3.0.doc

**NOTIFICATION OF 2 OR LESS GAMING MACHINES or
GAMING MACHINE PERMIT APPLICATIONS (i.e. for greater than 2 machines) for:
CONVERSION / NEW / VARIATION / TRANSFER**

(FOR USE BY PREMISES LICENSED TO SUPPLY ALCOHOL FOR CONSUMPTION ON THE PREMISES)

Please refer to guidance notes at the back of this form before completing

<p>Birmingham City Council Licensing Section Crystal Court Aston Cross Business Village 50 Rocky Lane Aston</p>	<p align="center">BCC REGULATION & LICENSING SECTION</p> <p align="center">DATE RECEIVED</p> <p align="center">16 FEB 2015</p> <p align="center">022141 ELSD CHD</p> <p align="center">(£100)</p>												
<p>SECTION A – What do you want to do?</p> <p>1. Please indicate what you would like to do</p> <p>a) Notify licensing authority that you intend to provide up to a maximum total of 2 gaming machines category C and / or D (if you choose this option then please complete sections D and E) <input type="checkbox"/></p> <p>b) Apply to convert an existing Section 34 permit issued under the Gaming Act 1968, into a licensed premises gaming machine permit (i.e. for more than 2 gaming machines) (if you choose this option then please complete sections B, D and E) <input type="checkbox"/></p> <p>c) Apply for a new licensed premises gaming machine permit (if you choose this option then please complete sections B, D and E) <input type="checkbox"/></p> <p>d) Apply to vary an existing licensed premises gaming machine permit (if you choose this option then please complete sections B, D and E) <input checked="" type="checkbox"/></p> <p>e) Apply to transfer an existing licensed premises gaming machine permit (if you choose this option then please complete sections C, D and E) <input type="checkbox"/></p>													
<p>SECTION B – Application for grant (includes <u>conversion</u>, <u>new</u> and <u>variation</u> applications)</p> <p>2. How many gaming machines are you currently authorised to provide and if this is a new or variation application, how many do you wish to provide? (please complete the boxes in the table)</p> <table border="1" style="width: 100%; border-collapse: collapse; margin: 10px 0;"> <thead> <tr> <th style="width: 20%;">Category machine</th> <th style="width: 40%;">Number currently authorised to provide</th> <th style="width: 40%;">Number wish to provide (new or variation)</th> </tr> </thead> <tbody> <tr> <td align="center">C</td> <td align="center">5</td> <td align="center">6</td> </tr> <tr> <td align="center">D</td> <td align="center">2</td> <td align="center">2</td> </tr> <tr> <td align="center">Total</td> <td align="center">7</td> <td align="center">8</td> </tr> </tbody> </table> <p>3. If you are currently authorised to provide more than 2 machines, please provide your existing Section 34 Gaming Act 1968 permit, or provide reasons stating why it cannot be provided.</p> <p align="right">Existing permit provided* <input checked="" type="checkbox"/></p> <p>(reasons why existing permit cannot be provided)</p> <p>.....</p> <p>.....</p>		Category machine	Number currently authorised to provide	Number wish to provide (new or variation)	C	5	6	D	2	2	Total	7	8
Category machine	Number currently authorised to provide	Number wish to provide (new or variation)											
C	5	6											
D	2	2											
Total	7	8											

*Please keep a copy of your existing permit on the premises to which it relates.

**NOTIFICATION OF 2 OR LESS GAMING MACHINES or
GAMING MACHINE PERMIT APPLICATIONS (i.e. for greater than 2 machines) for:
CONVERSION / NEW / VARIATION / TRANSFER**

(FOR USE BY PREMISES LICENSED TO SUPPLY ALCOHOL FOR CONSUMPTION ON THE PREMISES)

<p>Section C – Application for permit <u>transfer</u> (i.e. where a transfer has been requested for the Licensing Act 2003 premises licence)</p> <p>4. Name of person requesting the transfer</p> <p>.....</p> <p>5. Confirmation that an application to transfer the relevant Licensing Act 2003 Premises Licence has been:</p> <div style="text-align: right; margin-right: 50px;"> <p>Requested <input type="checkbox"/></p> <p>Granted <input type="checkbox"/></p> </div> <p>6. Please provide your existing permit, or provide reasons stating why it cannot be provided</p> <div style="text-align: right; margin-right: 50px;"> <p>Existing permit provided <input type="checkbox"/></p> <p>Reasons why existing permit cannot be provided</p> </div> <p>.....</p> <p>.....</p>	
<p>Section D – General Information</p> <p>7. Name of Premises Hunters Moon</p> <p>8. Address of Premises 220 Coleshill Road Birmingham B63 8BE</p> <p>9. Telephone number of Premises</p> <p>10. Name of existing Premises Licence holder Greene King Brewing and Retailing Limited</p> <p>11. Address of Premises Licence holder (if different from 8 above)</p> <p>Westgate Brewery, Bury St Edmunds Suffolk IP33 1QT</p> <p>12. Telephone number (daytime) of Premises Licence holder</p> <p>13. E-mail address of Premises Licence holder (where available)</p> <p>.....</p> <p>14. Name, address, telephone and e-mail of agent (e.g. solicitor) if submitted on behalf of the applicant</p> <p style="text-align: center;">Select Gaming Ltd Suite 10 Parkside Business Centre Plumpton Road Hoddesdon Herts</p> <p>EN11 0ES.</p> <p>15. Licensing Act 2003 Premises Licence Reference (i.e. number)</p> <p>.....</p>	

**NOTIFICATION OF 2 OR LESS GAMING MACHINES or
GAMING MACHINE PERMIT APPLICATIONS (i.e. for greater than 2 machines) for:
CONVERSION / NEW / VARIATION / TRANSFER**

(FOR USE BY PREMISES LICENSED TO SUPPLY ALCOHOL FOR CONSUMPTION ON THE PREMISES)

Section E – Fee and Signature(s)

I enclose a sum of (£ 100)* (cheques should be made payable to Birmingham City Council .)



I understand that I must comply with the Gaming Machine Code of Practice for Alcohol Licensed Premise Permits and Permissions issued by the Gambling Commission. (see guidance note 8)

Please note: It is an offence under section 342 of the Gambling Act 2005 if a person, without reasonable excuse, gives to a licensing authority for a purpose connected with that Act information which is false or misleading.

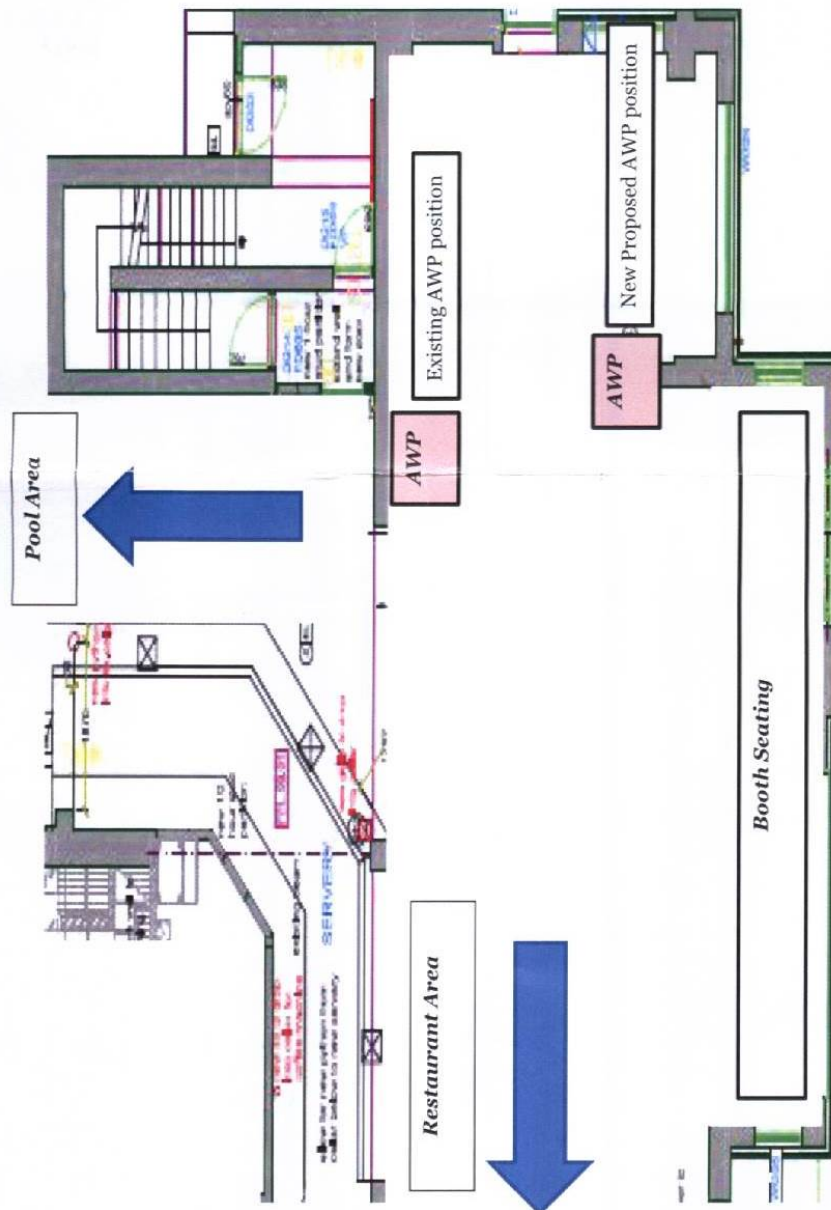
Dated 12th February 2016

Signed (by or on behalf of Licensing Act 2003 Premises Licence holder):-.....

Print Name.....

* If you wish to have a maximum of 2 gaming machines then the fee payable is £50. If you wish to have more than 2 gaming machines then the fee payable is £150 for new applications and £100 for Section 34 (Gaming Act 1968) holders.

Huntermoon



Appendix 2 cont. Applicants – Supporting Information

To: Birmingham Council Licensing

Date:

Re: Permit Application at the Hungry Horse, Hunters Moon, 220 Coleshill Road, B63 8BE

Dear Annette,

I am writing in response to your recent correspondence regarding the permit application at the Hunters Moon Hungry Horse (address shown above) & the enforcement Officers subsequent recommendation to refuse this. My thanks for sharing this recommendation with me before the permit hearing takes place.

I enclose a plan showing the proposed position of the additional Category C gaming machine (noted as red on plan), with all other Gaming Machine positions shown on the plan. The new Gaming Machine position will be sited in the over 18's area of the bar (as shown on plan).

I am appreciative of the time and effort spent so far in examining our application and in the Licencing Enforcement Officer taking the time to visit the premises. I would like though to take this opportunity to correct some inaccuracies contained within the report we received following this visit. The report states: *'In Sports area 1 'category C' & '2 category D' machines, in the Bar area '1 category C' machine & in the Lounge area 3 'non complex' category D machines & a category D machine in operation'*

The Hunters Moon has 5 Category C Gaming Machines which are all made available for customer use, four of these are in the bar side of the pub and one in the dinning side. In addition to these Category C Gaming Machines there are also 2 Category D Gaming Machines in the dinning side. Just to be clear customers can dine in the bar side or drink in the dining side.

I've not been able to establish with whom the Licencing Officer spoke with at the pub, although I have established it wasn't the General Manager or the Deputy Manager. To be clear there is no plan to remove a section of seating to accommodate an additional Gaming Machine, there are however other suitable locations where an additional Gaming Machine could be situated.

The report states 'it could be seen that the pub is a restaurant aimed at families'. The Hunters Moon is branded Hungry Horse and is aimed at a broad range of target customers. It may help the Licencing Committee to know that there is a higher level of drink sales than food sales.

Compliance with the Gambling Act, Licencing Conditions and Codes of Practice as well as upholding the licencing objectives of the Gambling Act are very important to Greene King.

We are fully aware of our responsibilities to adequately supervise all gaming machines and to this effect we have in place the following procedures:

- All gaming machines are fully supervised by means of either being in line of sight from the bar, being covered by CCTV and by staff frequently being active in the area in which gaming machines are placed.
- The proposed additional Category C gaming machine will be supervised by means of the Bar staff in the area & also CCTV.
- All staff, have been trained that no person under the age of 18 may play a gaming machine, in the Hunters Moon, we have in place a think 21 policy.
- All staff are trained that if someone who appears under the age of 21 attempts to play a gaming machine they must be challenged and asked to produce ID. Acceptable ID includes a

passport, photo driving licence or PASS card. Anyone who appears under 21 who cannot produce appropriate ID is prevented from playing on a gaming machine.

- All of the category C gaming machines installed at our premises have clear signage to show they are not to be used by under 18's and also have details of where a customer may get help should they develop a problem with gambling.
- All gaming machines are positioned so that a customer playing them must cease doing so should they wish to use the ATM.

To date we have not have an instance of a customer requesting that they are self-excluded from our premises.

Customer demand is such that a further Category C gaming machine is required.

In response to your letter, we have also taken action to move the category C Gaming Machine sited in the dining side further away from the distraction zone.

The report states 'the number of machines will not satisfy the requirement that gambling at the premises remain ancillary to the sale of alcohol'. The premises operates with sales in excess of £40,000 a week, through food & drink, machine sales are less than 10% of this. Machines operate in seven square foot of this business currently, which is spread over approximately 5,000 square foot and operates over 200 covers for customers to eat & drink. In this respect the number of machines in accordance with square footage of the business or the overall sales shows that gambling is purely ancillary to the business of the pub.

I would happy to arrange to meet with you to discuss or expand upon any of these points either at your offices or at the Hunters Moon. I can also make myself available to attend the Licencing Hearing to discuss this permit application.

Yours Sincerely

Craig Taylor

Craig Taylor
Machines Manager – Greene King

**HUNTERS MOON
220 COLESHILL ROAD
BIRMINGHAM
B36 8BE**

**APPLICATION TO VARY LICENSED PREMISES GAMING MACHINE PERMIT
APPLICANT'S REPRESENTATIONS**

Gambling Act 2005

The Gambling Act 2005 (the Act) provides qualifying alcohol licensed premises with the ability to make gaming machines available for use on their premises.

In order to qualify for the entitlement the alcohol licensed premises must satisfy the following criteria:-

- They must have the benefit of an on-premises alcohol licence which authorises the supply of alcohol for consumption on the licensed premises.
- The premises must contain a bar at which alcohol is served for consumption on the premises.
- There must be no requirement that alcohol is served only with food.
- The entitlement only applies at a time when alcohol may be supplied in reliance on the alcohol licence.

Alcohol licensed premises which satisfy the above criteria have an automatic entitlement to provide a maximum of 2 gaming machines of category C or D.

The automatic entitlement does not require any application to be made to the licensing authority but will only come into effect once the alcohol licence holder has sent to the licensing authority written notice of their intention to make gaming machines available for use and paid the relevant fee.

An alcohol licence holder who wishes to provide more than 2 category C or D gaming machines may apply to the licensing authority for a licensed premises gaming machine permit.

The Act contains no limit on the number of gaming machines which may be applied for or granted.

A category C gaming machine is subject to a maximum stake of £1.00 and a maximum prize of £100.00.

A category C gaming machine may only be played by someone aged 18 or over.

A category D gaming machine may be played by a person of any age and is subject to the following stake and prize limits:-

- Money prize machine – maximum stake 10p, maximum prize £5.00.
- General – maximum stake 10p, maximum prize value £8.00 (£5.00 money prize).
- Non-money prize machine – maximum stake 30p, maximum prize value £8.00.
- Crane grab machine – maximum stake £1.00, maximum prize value £50.00.
- Coin pusher – maximum stake 20p, maximum prize value £20.00 (only £10.00 or less in money).

It is a condition of the Act that gaming machines provided on alcohol licensed premises must comply with a Code of Practice issued by the Gambling Commission.

Code of Practice

In August 2014 the Gambling Commission published the latest version of the Code of Practice for gaming machines in clubs and premises with an alcohol licence.

The Code of Practice states that compliance with the following provisions is a condition of the licensed premises gaming machine permit, and failure to do so could result in revocation of the permit:-

- All gaming machines situated on the premises must be located in a place within the premises so that their use can be supervised, either by staff whose duties include such supervision (including bar or floor staff) or by other means.
- Permit holders must have in place arrangements for such supervision.
- All gaming machines situated on the premises shall be located in a place that requires a customer who wishes to use any ATM made available on the premises to cease gambling at the gaming machines in order to do so. "ATM" means a machine located on the premises, which enables a person using it to obtain cash by use of a credit or debit card.

The Code goes on to include a provision relating to access to gambling by children and young persons. It states that compliance with this section is not a condition of the permit. However it sets out good practice in this area and the Commission considers it should be implemented by permit holders:-

- Permit holders should put into effect procedures intended to prevent under age gambling. This should include procedures for:-
 - Checking the age of those who appear underage.
 - Refusing entry to anyone unable to produce an acceptable form of identification.

- Permit holders should take all reasonable steps to ensure that all relevant employees understand their responsibilities for preventing underage gambling. Permit holders should only accept identification which:-
 - Contains a photograph from which the individual can be identified.
 - States the individual's date of birth.
 - Is valid.
 - Is legible and has no visible signs of tampering or reproduction.
- The Commission considers acceptable forms of identification to include any identification carrying the PASS logo (for example Citizen card or Validate), a driving licence (including provisional licence) with photo card or a passport.
- Procedures should be in place for dealing with cases where a child or young person repeatedly attempts to gamble on category C machines (including oral warnings, reporting the offence to the Commission and police), and making available information on problem gambling.

The Code also includes a section on complaints and disputes which is not a condition of the permit but sets out good practice in this area.

The Act requires category C and other adult only gaming machines to be located in an area for adults only except where category C machines are provided in accordance with:-

- Notification under the automatic entitlement for alcohol licensed premises.
- A licensed premises gaming machine permit.

Licensed Premises Gaming Machine Permit

The Act provides that a licensing authority shall consider an application for a licensed premises gaming machine permit having regard to:-

- The licensing objectives.
- Any relevant guidance issued by the Commission under Section 25.
- Such other matters as they think relevant.

A permit must specify the number and category of gaming machines which it authorises.

A licensing authority may not attach conditions to a permit.

The licensing authority which issued the permit may cancel it, or may vary the number or category (or both) of gaming machines authorised by it, if they think that:-

- It would not be reasonably consistent with pursuit of the licensing objectives for the permit to continue to have effect.
- Gaming has taken place on the premises in purported reliance on the permit but otherwise than in accordance with the permit or a condition of the permit.
- The premises are mainly used or to be used for making gaming machines available.
- An offence under this Act has been committed on the premises.
- As soon as is reasonably practicable after refusing an application a licensing authority shall notify the applicant of:-

- The refusal.
- The reasons for it.

The applicant for a permit may appeal to the Magistrates Court if the licensing authority:-

- Rejects an application for a permit.
- Grants an application for a permit in respect of a smaller number of machines than that specified in the application or a different category of machines from that specified in the application (or both).

On an appeal the Magistrates Court may:-

- Dismiss the appeal.
- Substitute for the decision appealed any decision that the licensing authority could have made.
- Remit the case to the licensing authority to decide in accordance with a direction of the court.
- Make an order about costs.

Statement of Principles

Birmingham City Council's Statement of Principles is effective from 1st May 2016 and Part C (3) on page 31 contains provisions relating to licensed premises gaming machine permits.

The Statement of Principles provides that the licensing authority will generally have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there

will be sufficient measures to ensure that persons under 18 years of age do not have access to the adult only gaming machines.

Measures which will satisfy the authority that there will be no access may include:-

- The adult machines being in sight of the bar or in the sight of staff who will monitor that the machines are not being used by those under 18.
- Notices and signage may also be of help.

With regard to the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

The Statement of Principles goes on to provide that the licensing authority will have regard to the licensing objectives, and may also take into account any matters that are considered relevant to the application. These may include:-

- The appropriate siting of gaming machines in areas where children are not normally permitted.
- The size of the premises.
- The supervision of gaming machines at all times when the premises is open.
- Notices by each gaming machine specifying no person under 18 years old are permitted to use the gaming machine.
- Age verification checks.
- Ensuring that members of staff are appropriately trained.
- Display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues.

The Variation Application

The Hunters Moon is operated under the "Hungry Horse" style. As such it is a public house which has a substantial food offering but is not a restaurant. The Hungry Horse style of operation appeals to a broad range of clientele, both young and old.

The premises qualify for the entitlements under the Act and currently have the benefit of a licensed premises gaming machine permit which authorises 5 category C gaming machines and 2 category D gaming machines.

The premises are basically divided into two areas, one which is predominantly used for dining and the other which is predominantly used for drinking.

Currently 4 of the category C gaming machines are located in the bar area of the premises. The other category C machine is located in the dining area together with the 2 category D gaming machines.

Although the predominant use of the premises is divided between dining and drinking it is possible for customers to have a meal anywhere throughout the premises with the result that there are in excess of 200 covers available for customers to dine and drink.

The total trading area of the premises is approximately 5,000 square feet of which approximately 7 square feet is currently taken up by the 7 gaming machines.

The plan submitted with these representations shows the location of the existing gaming machines and the proposed location of the additional category C gaming machine which is the subject of the current application.

If the application is granted the additional category C machine will be located in the adult only bar area.

Licensing enforcement team

Following receipt of the application a member of the licensing enforcement team visited the premises on 24th February 2016 and made a number of observations:-

- Reference was made to the current licensed premises gaming machine permit and locations of the machines authorised by the permit. The information concerning the locations was slightly incorrect in that it refers to 8 gaming machines whereas only 7 are provided.
- The report confirmed that all machines are visible to members of staff working in the relevant areas.
- Reference is made to a conversation with a "duty manager" but neither the general manager or duly manager recall having any such conversation.
- Whichever member of staff was involved in the conversation provided incorrect information as there is no intention to remove any seating to accommodate an additional gaming machine.

The licensing enforcement team make reference to a visit to the premises on 10th February 2016 and state that the pub is mainly a restaurant aimed for families.

The recommendation refers to an indoor children's play area and a separate sports area which offers a pool table and gaming machines.

The Team object to the application as it would raise concern in promoting the licensing objectives and in particular the protection of children and other vulnerable persons from being harmed or exploited by gambling.

The recommendation goes on to state that the Team considers the number and category of gaming machines applied for would not satisfy the requirement that gambling at the premises remains ancillary to the main purpose being the sale of alcohol and would be deemed excessive given the size and layout of the premises.

9

Licensing Sub-Committee's Interim Decision

In a letter dated 24th May 2016 the licensing authority advised the applicant's agent that the sub-committee were minded to refuse the application.

The letter goes on to state that in reaching this interim decision, the sub-committee were mindful of the promotion of the gambling objectives in the Act particularly protecting children and other vulnerable person from being harmed or exploited by gambling.

At the hearing of the licensing sub-committee the letter states that the applicant will be asked to clarify whether the applicant complies with the Council's Gambling Act Statement of Licensing Principles. There is then reference to a specific section in the Statements of Principles which can be found on page 17. This section relates to applications for premises licences and is not relevant to an application for a licensed premises gaming machine permit.

Applicant's Response

The application for variation of the existing licensed premises gaming machine permit has been validly made in accordance with the procedure contained in the Act.

There has been no criticism of the way in which the premises have operated in accordance with the existing licensed premises gaming machine permit. In particular, there has been no action taken by the licensing authority to remove the existing permit under any of the grounds contained in the Act.

The Greene King group of companies are currently responsible for approximately 3,000 alcohol licensed premises.

Gaming Machines are provided in a substantial number of those premises under a combination of Notifications and Licensed Premises Gaming Machine Permits.

10

Under the provisions of the Licensing Act 2003 the applicant is aware of the need to comply with the licensing objectives under that Act which include the protection of children from harm.

As such, in accordance with the applicant's responsibilities under the Licensing Act 2003 there is a regime in place which includes:-

- A requirement to implement an age verification policy to prevent the sale of alcohol to, or consumption of alcohol by, persons under 18 years of age.
- Supervision of the premises to prevent the sale of alcohol to, or consumption of alcohol by, persons under 18 years of age.
- Training of staff to prevent the sale of alcohol to, or consumption of alcohol by, persons under 18 years of age.
- The applicant's policies and procedures which relate to the above matters also include similar provisions in relation to gaming machines and are designed to:-
 - Prevent adult gaming machines being played by persons under 18 years of age.
 - Provide supervision of gaming machines to prevent adult gaming machines being played by persons under 18 years of age.
 - Train staff to prevent persons under 18 years of age playing adult gaming machines.

Further measures are implemented in order to protect vulnerable persons from being harmed by playing gaming machines.

As a consequence of implementing the above policies and procedures at the premises:-

- All gaming machines are fully supervised by a combination of methods including direct supervision by members of staff from the bar server, coverage by the internal CCTV system and members of staff working within the areas where gaming machines are located.
- Implementation of a Challenge 21 policy which requires members of staff who consider that anyone who appears to be under 21 years of age to produce an acceptable form of identification before they are allowed to play a category C gaming machine.
- Acceptable forms of identification include a passport, photocard driving licence or PASS card. Anyone who appears under 21 who cannot produce an acceptable form of identification to prove their age will not be allowed to play a category C gaming machine.
- All members of staff receive training in respect of these measures.
- All of the category C gaming machines made available at the premises have clear signage stating that they are not to be used by persons under 18.
- All category C gaming machines made available at the premises have notices containing details where customers may obtain help should they have concerns regarding gambling addiction or a similar problem.
- All gaming machines provided at the premises are located in positions which require customers to cease playing a machine in order to use the ATM.

Throughout the period of time that gaming machines have been provided by the applicant at the premises there have been no complaints concerning the promotion of the licensing objective relating to children and vulnerable persons contained in the Act, in particular:-

- There have been no suggestions that individuals under 18 years of age are allowed to play category C gaming machines.

- There is no suggestion that vulnerable persons are allowed to play gaming machines.
- No customers have requested assistance concerning gambling addiction or a similar problem and there has been no request by a customer to be self excluded from the premises.

In an effort to address the concern of the Licensing Enforcement Team regarding the location of a category C in the dining area of the premises the applicant would propose moving the machine away from its current location.

The Licensing Enforcement Team refer to a requirement that gambling at the premises remains ancillary to the main purpose being the sale of alcohol. There is no such legal requirement in licensing or gambling legislation but in any event it will not be the case in respect of these premises:-

- The total weekly income from food and drink sales is in excess of £40,000.00.
- The total weekly income from machine sales is less than £4,000.00.
- The total trading area of the premises is approximately 5,000 square feet.
- The existing gaming machines occupy approximately 7 square feet of the premises.
- The existing gaming machines provided at the premises comply with all relevant provisions of the Act.
- The gaming machines are provided in compliance with the Code of Practice issued by the Gambling Commission.
- The existing gaming machines and the additional machine would be fully compliant with all the relevant provisions of the licensing authority's Statement of Principles.

There is no evidence to suggest that the existing gaming machines have been made available in breach of any of the licensing objectives but, in particular, the objective concerning the protection of children and other vulnerable persons from being harmed or exploited by gambling.

No such evidence has been provided that the provision of an additional category C gaming machine at the premises will be detrimental to any of the licensing objectives and, in particular, the objective concerning protection of children and other vulnerable persons.

There is no suggestion that the operation of the existing gaming machines and the provision of an additional category C gaming machine would be contrary to any provision contained in the Gambling Commission's Guidance to Licensing Authorities.

There has been no suggestion that the provision of the existing gaming machines is contrary to the licensing authority's Statement of Principles and there is no evidence to suggest that the provision of an additional category C gaming machine would be contrary to the Statement of Principles.

The Act requires the licensing authority to give reasons which are intelligible and adequate amongst other things (*Marathon Restaurant v London Borough of Camden* 2011).

There is also authority which states that the weight attached to the reasons given for a decision by the licensing authority must take into account their fullness and clarity, the nature of the issues and evidence (*R (Hope and Glory Public House Limited) v City of Westminster Magistrates* 2011).

Summary

The applicant has operated the premises with the benefit of a licensed premises gaming machine permit without any issue.

The applicant has made a valid request to provide one additional category C gaming machine at the premises.

The application has been opposed on two grounds:-

- Concern that the provision of the additional gaming machine will be detrimental to the licensing objectives, in particular the protection of children and vulnerable persons.
- The provision of an additional category C gaming machine will mean that gambling at the premises is no longer ancillary to the sale of alcohol.

There has been no evidence to suggest that the existing gaming machines have been operated in breach of the licensing objectives or any evidence to suggest that the applicant is incapable of providing an additional category C gaming machine in accordance with the licensing objectives.

There is no legal requirement in licensing or gambling legislation for gambling at the premises to remain ancillary to the sale of alcohol.

Even if there were such a requirement, the evidence clearly establishes that the provision of an additional category C gaming machine will not result in gambling becoming the main activity at the premises. On the contrary, the evidence establishes that gambling will remain an ancillary activity with the main activity being the sale of food and drink.

In all the circumstances, the licensing authority is asked to accept that the application:-

- Is not detrimental to any of the licensing objectives.

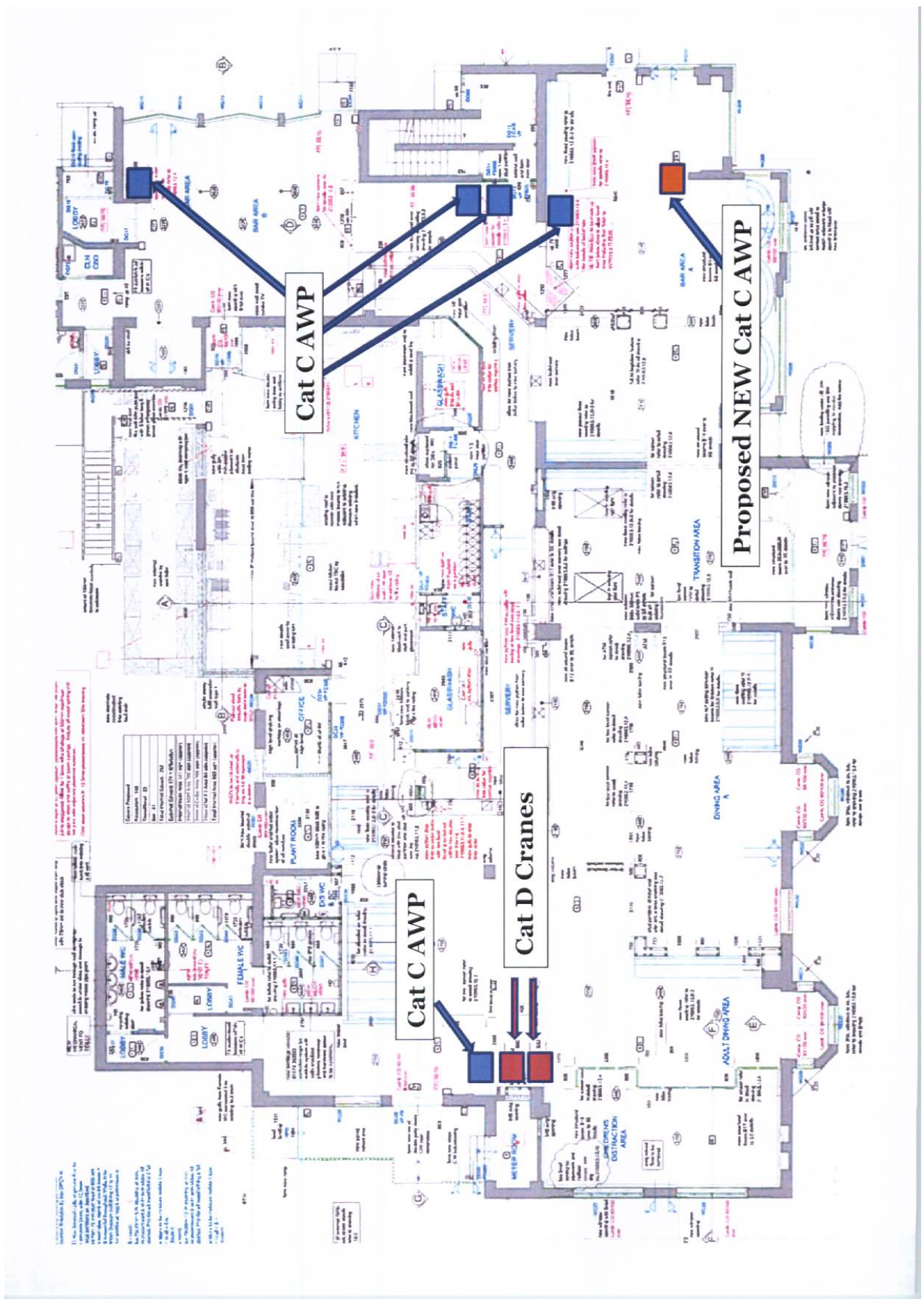
- Is not in contravention of any provision of the Gambling Commission's Guidance to Licensing Authorities.
- Does not give rise to any justifiable reason for refusing the application.

In the letter dated 24th May 2016 reference is made in the final paragraphs to the applicant's right of appeal and the possibility that if an appeal is unsuccessful the City Council is likely to ask the Court to make an order for costs against the applicant.

It must also be borne in mind that if the applicant is successful in any appeal it is possible to ask the Court to make an order requiring the Council to pay the applicant's costs. In considering any such application the Court will consider the reasons for refusing the application and the evidence provided in support of those reasons.

Dated 8th July 2016

Fraser Brown
Solicitors for the Applicant
84 Friar Lane, Nottingham, NG1 6ED



BIRMINGHAM CITY COUNCIL

This form is prescribed by regulation 4 of the Gambling Act 2005 (Licensed Premises Gaming Machine Permits) (England and Wales) Regulations 2007

Licensed Premises Gaming Machine Permit

No: 706 / 4

This licensed premises gaming machine permit authorises:

Greene King Brewing and Retailing Limited

to make gaming machines, of the category and number specified below, available for use on the following premises

Hunters Moon, 220 Coleshill Road, Birmingham, B36 8BE

Number of Category C Gaming Machines authorised by this permit: 5

Number of Category D Gaming Machines authorised by this permit: 2

Date on which this permit takes effect or is renewed:
04/03/2015

This permit is issued by:

Birmingham City Council
Licensing Section, Crystal Court, Aston Cross Business Village,
50 Rocky Lane, Aston, Birmingham, B6 5RQ

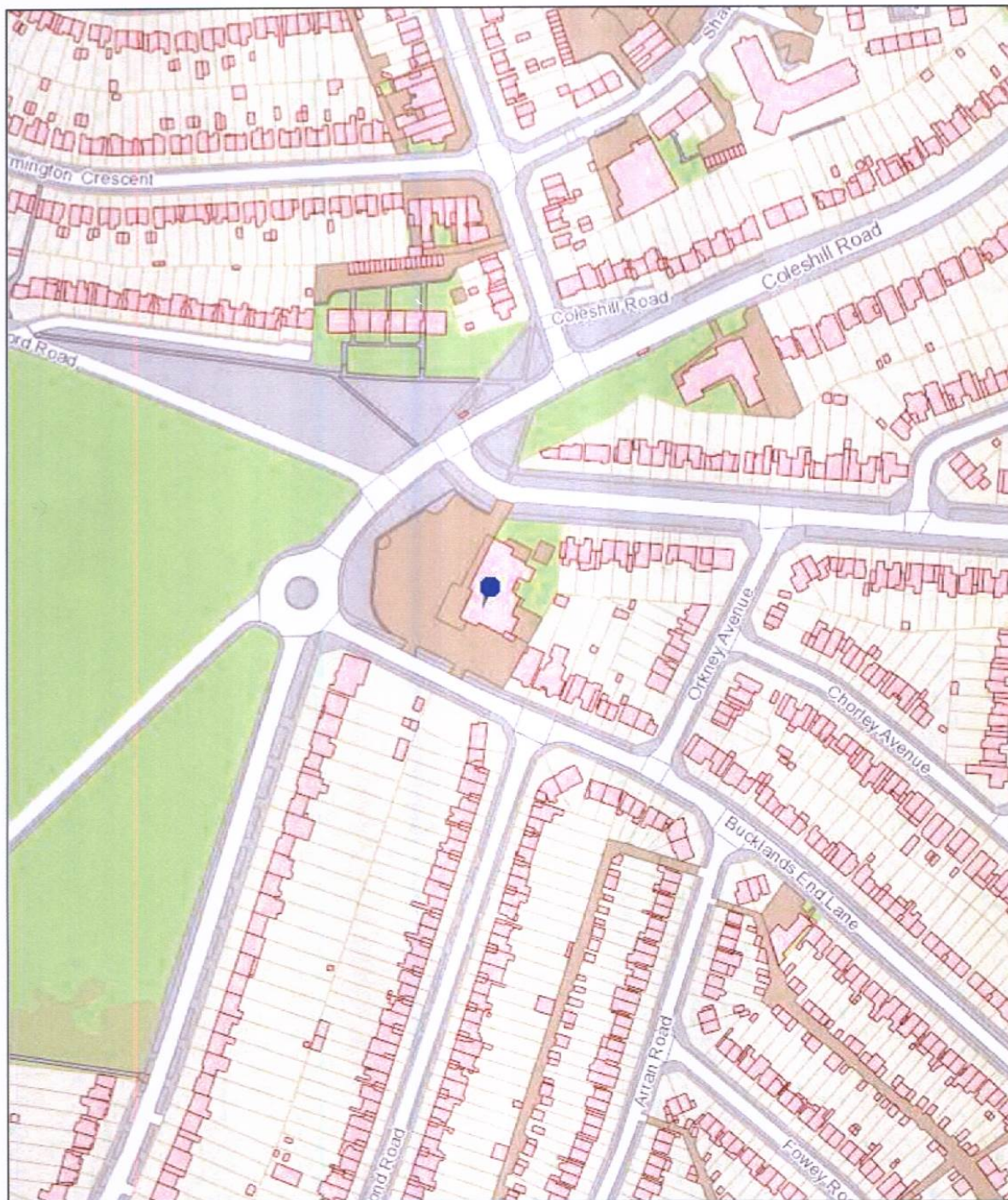
Licensing Section, Crystal Court, Aston Cross Business Village, 50 Rocky Lane, Aston, Birmingham, B6 5RQ

Appendix 4

Gaming Machines (Fruit Machine, Slot Machine) Categories

Gaming machines (fruit machines, slot machines) fall into categories depending on the maximum stake and prize available:

Machine category	Maximum stake (from January 2014)	Maximum prize (from January 2014)
A	Unlimited	Unlimited
<u>B1</u>	£5	£10,000 (with the option of a maximum £20,000 linked progressive jackpot on a premises basis only)
<u>B2</u>	£100	£500
<u>B3</u>	£2	£500
B3A	£2	£500
<u>B4</u>	£2	£400
<u>C</u>	£1	£100
<u>D non-money prize (other than crane grab machine)</u>	30p	£8
<u>D non-money prize (crane grab machine)</u>	£1	£50
<u>D money prize</u>	10p	£5
<u>D combined money and non-money prize (other than coin pusher or penny falls machines)</u>	10p	£8 (of which no more than £5 may be a money prize)
<u>D combined money and non-money prize (coin pusher or penny falls machine)</u>	20p	£20 (of which no more than £10 may be a money prize)



Birmingham City Council

Map Created By:

Notes

Date of Map Creation: 21/04/2016

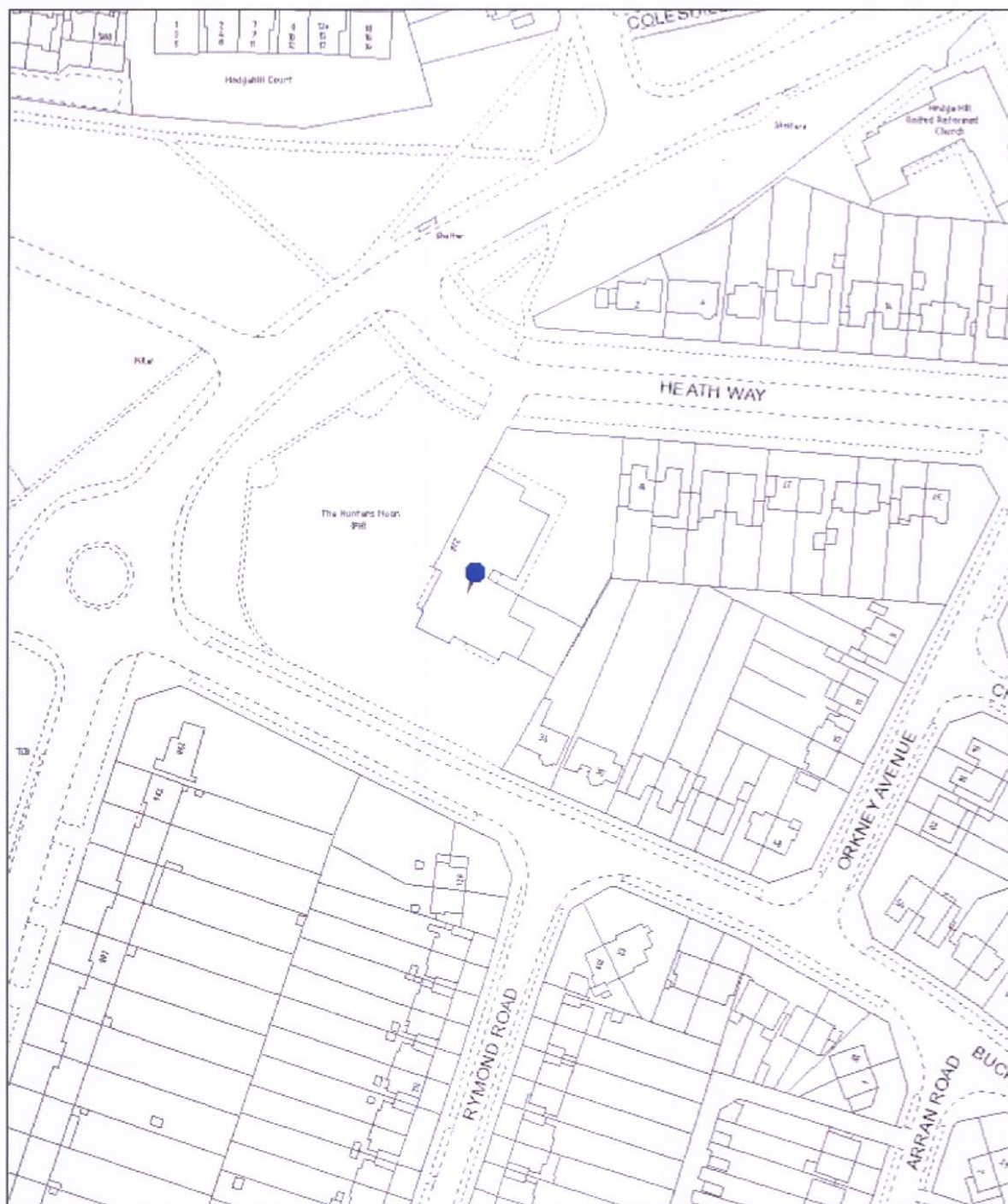


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