

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE B

TUESDAY, 29 AUGUST 2023 AT 10:00 HOURS
IN ON-LINE MEETING, MICROSOFT TEAMS

Please note a short break will be taken approximately 90 minutes from the start of the meeting and a 30 minute break will be taken at 1300 hours.

A G E N D A

1 NOTICE OF RECORDING/WEBCAST

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 DECLARATIONS OF INTERESTS

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting.

If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If it is a 'sensitive interest', Members do not have to disclose the nature of the interest, just that they have an interest.

Information on the Local Government Association's Model Councillor Code of Conduct is set out via <http://bit.ly/3WtGQnN>. This includes, at Appendix 1, an interests flowchart which provides a simple guide to declaring interests at meetings.

3 **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

3 - 14

4 **MINUTES**

To note the public part of the Minutes of the meeting held on 1 August 2023 at 1000 hours and to confirm and sign the Minutes as a whole.

15 - 65

5 **LICENSING ACT 2003 PREMISES LICENCE – REVIEW DIAMOND FOOD AND WINE, 1001 – 1003 TYBURN ROAD, ERDINGTON, BIRMINGHAM, B24 0TQ**

Report of the Director of Regulation and Enforcement.
N.B. Application scheduled to be heard at 10:00am.

6 **OTHER URGENT BUSINESS**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chair 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:-

Exempt Paragraph 3

PRIVATE AGENDA

1 **MINUTES**

To note the private part of the Minutes of the meeting held on 1 August 2023 at 1000 hours and to confirm and sign the Minutes as a whole.

2 **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 Chair are matters of urgency.

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE B 1 AUGUST 2023
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MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY 1 AUGUST 2023 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Diane Donaldson in the Chair;

Councillors Saddak Miah and Julien Pritchard.

ALSO PRESENT

Bhapinder Nandhra – Licensing Section
Joanne Swampillai – Legal Services
Katy Poole – Committee Services

(Other officers were also present for web streaming purposes but were not actively participating in the meeting)

1/010823 **NOTICE OF RECORDING/WEBCAST**

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Public-I microsite ([please click this link](#)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2/010823 **DECLARATION OF INTERESTS**

Members are reminded they must declare all relevant pecuniary and other registerable interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not participate in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

If other registerable interests are declared a Member may speak on the matter only if members of the public are allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless they have been granted a dispensation.

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APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/010823 Apologies were submitted on behalf of Councillor Adam Higgs and Councillor Julien Pritchard was the nominated substitute Members.

MINUTES

4/010823 The Public section of the minutes of the meetings held on 20 June 2023 at 1000 hours were noted.

LICENSING ACT 2003 PREMISES LICENCE – REVIEW – G&G WINES, 16 CHURCH ROAD, NECHELLS, BIRMINGHAM, B6 5UP.

On Behalf of the Applicant

Ben Reader – West Midlands Police (WMP)

On Behalf of The Premises Licence Holder

Adrian Curtis – Solicitor

Mrs Randhawa – Wife of premises licence holder (PLH)

* * *

The Chair introduced the Members and officers present and the Chair asked if there were any preliminary points for the Sub-Committee to consider.

At this stage, the Chair outlined the procedure to be followed at the hearing and invited the Licensing Officer to present his report. Bhapinder Nandhra, Licensing Section, outlined the report.

At this stage the chair invited the applicant to make their presentation and Ben Reader, WMP made the following points: -

- a) That a 13yo female was found with a vape at school. When challenged about where she purchased it she told her family that she got it from G&G Wines and had been numerous times on her way back from school to purchase vapes.
- b) Ben Reader arranged to visit the premises with the neighbourhood team and attended the premises on the 2nd June 2023. Neither the designated premises supervisor (DPS) or premises licence holder (PLH) were present but there was a man there running the premises who stated the PLH/DPS were his Aunt and Uncle. He was working and running the shop on his own.

At this stage Ben Reader requested to screen the body cam footage but did not request that it be shown in private. After discussions amongst the parties the

Chair requested that the footage be shown in private in order to not prejudice any criminal proceedings.

EXCLUSION OF THE PUBLIC

5/010823

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:-

Exempt information under Schedule 12A of the Local Government Act 1972.

Following the submissions made in private the public were re-admitted to the meeting.

Ben Reader, WMP continued with his submissions and made the following points: -

- a) That the lack of knowledge was disappointing. The amount of products recovered that exceeded the legal limit clearly showed that the PLH was not upholding the licensing objectives.
- b) The vapes were 3500 puffs, and the legal limit is 600. They were found under the counter in a draw.
- c) WMP served paperwork and later the PLH/DPS attended the premises. They spoke with him, and he was very defensive.
- d) Neither the PLH nor DPS were able to recite the licensing objectives when asked by WMP. They also couldn't operate the CCTV system; no challenge 25 signage and he didn't know what a challenge 25 policy was.
- e) They had no confidence that the premises were operating lawfully or that they could uphold the licensing objectives, in particular protecting young people.

Members asked questions and Ben Reader, WMP gave the following responses:
-

- a) There were multiple breaches at the premises and a complete lack of knowledge.
- b) WMP had no confidence in the operation of the premises and asked the Committee to consider all options available to them.
- c) The premises was situated in a small row of shops, in a primarily residential area not far from Villa Park. The premises would be particularly busy on match days.

- d) He didn't know if there were hostels in the area, but if there were that would cause further concerns.
- e) The challenge 25 posters were not in situ when he visited the premises. When questioned about it the PLH said they operated a challenge 18 policy, but he had never heard of that before.

At this stage the Chair then invited the PLH/representative to make their case. Adrian Curtis, acting on behalf of the PLH made the following points: -

- a) That the PLH was in hospital as he was having a stent fitted after having a heart attack. They were going to make an application for an adjournment but due to the PLH's anxiety and stress they thought they would proceed.
- b) The premises had been trading for over 4 decades.
- c) The shop served the local community.
- d) It was completely denied that the knife and hockey stick were in the premises to be used as weapons. The items were his fathers.
- e) The person in the shop at the time didn't know what they were and certainly didn't think they were weapons. The man knew where the emergency button was.
- f) The PLH spends most of his time there, sometimes eating his dinner there. He smoked and used the paper cups himself. They did not sell single cigarettes, they were the PLH's cigarettes.
- g) The cigarettes were not there to be sold.
- h) Illegal vapes were found under the counter and the majority that were on display were not illegal.
- i) The rep came to the premises and gave them some sample vapes which they stored under the counter. They didn't know the guidelines regarding the number of puffs for vape products.
- j) They had submitted an evidence bundle of documents showing the changes they have made, including new challenge 25 notices.
- k) The shop had been trading without issues for 40years.
- l) Mr Curtis had given them advice and recommended that they do the level 2 personal licence training which they had completed and passed. The nephew had also completed and passed the course.
- m) The premises had undergone a complete overhaul. They had purchased a refusals book.
- n) They had previously passed two under-age test purchases for lottery tickets.

- o) The premises had not come to the attention of WMP before.
- p) The single cigarettes were the PLH's and were open in a plastic container behind the counter. He had done that for years.
- q) The hockey stick was his fathers, and the knife was behind the counter but not used for a weapon.

Members asked questions and Adrian Curtis and Mrs Randhawa gave the following responses: -

Mrs Randhawa: -

- a) That the challenge 25 policy meant that if someone looked under 25 she would request for photo ID and if they couldn't provide it they would be refused the sale.
- b) That she sometimes took food to her husband whilst he was working in the shop.
- c) That she knew her customers well, they were like family. She would help them if they needed it.

Adrian Curtis: -

- a) That they had completely overhauled the premises and the personal licence training had been completed by the PLH/DPS. They had implemented a challenge 25 policy, refusals book and welcomed WMP to come visit.

The Chair invited closing submissions and Ben Reader, WMP made the following statements: -

- That the PLH denies the evidence submitted by WMP.
- It was impossible that all the excuses given by the PLH regarding the plastic cups, single cigarettes, weapons behind the counter and vapes were all plausible given how many issues there were at the premises.
- The initial reason for the review application submitted by WMP was due to the illegal vapes found under the counter when WMP visited the premises on the back of intel received about vapes being sold to minors at the premises.
- The manner in which the premises is operating was a huge concern.

Then Adrian Curtis was invited to make a closing submission on behalf of the PLH, he made the following closing statements: -

- That they had accepted that there was a lack of training and knowledge and had rectified that.

- They welcomed WMP to come and visit the premises again and see the new operation.
- The general opinion of Ben Reader was that the excuses were implausible, but they had been trading for 40 years without issue or concern.
- The premises was a community store.
- They had carried out a complete overhaul of the operation at the premises.
- It was their submission that it was appropriate to fully condition the licence.
- The licence had no conditions attached to it currently and that needed updating.
- They had passed test purchases before.
- He invited the Committee to implement strong conditions on the licence. Suspension/revocation was not required.

Mrs Randhawa added that she was sorry for what happened and needed to continue trading as it was their livelihood.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and the short decision of the Sub-Committee was announced in public, then a full written decision was sent to all parties as follows;

6/010823 **RESOLVED:-**

That, having reviewed the premises licence held under the Licensing Act 2003 by Gurnaik Singh Randhawa in respect of G & G Wines, 16 Church Road, Nechells, Birmingham B6 5UP, upon the application of West Midlands Police, this Sub-Committee hereby determines:

- A. That the licence be suspended for a period of one week, in order to give the licence holder sufficient time to make proper arrangements regarding implementation of the additional conditions (as below), and for the premises to prepare for safe trading
- B. That the conditions of the licence shall be modified by the addition of conditions (see below), as suggested by the solicitor for the premises licence holder, in order to promote the licensing objectives in the Act of the prevention of crime and disorder, public safety and the protection of children from harm

Conditions to be added to the licence:

CCTV

- A digital Closed Circuit Television System (CCTV) will be maintained in good working order and be correctly time and date stamped
- The system will record and retain CCTV footage for a minimum of 28 days
- The system will record at all times when the premises is open and conducting licensable activities
- There will be, at all times when the premises is open and conducting licensable activities, a member of staff on duty with access to the CCTV system who is trained in the use of the equipment
- CCTV footage must be made available to be viewed by West Midlands Police or an officer of a responsible authority upon request

REFUSALS REGISTER

- A refusals register must be kept at the premises, and maintained such that it is up to date at all times, recording the date, time, type of product refused, and the reason(s), for every refusal to sell alcohol or any other age restricted product to a customer, and give the name and signature of the member of staff refusing the sale
- The refusals record must be made available to West Midlands Police or an officer of a responsible authority on request
- The premises licence holder or the designated premises supervisor must monitor the refusals register every month and must sign and date the refusals register when this has been completed

TRAINING

- Training in relation to the upholding of the licensing objectives, the conditions on the premises licence, Challenge 25, underage sales, sales to adults on behalf of minors ("proxy sales"), and the use of the refusals register, must be undertaken by each member of staff (whether paid or unpaid) before he/she is permitted to conduct the sale of alcohol, and such training shall be refreshed at six-monthly intervals
- Documented training records must be completed in respect of every member of staff and must include the name of the member of staff trained, date, time and content of the training. The record must be signed by the member of staff who has received the training, the Designated Premises Supervisor, the Premises Licence Holder (and if relevant, the external training provider)
- The documented training records must be kept at the premises and made available to West Midlands Police or an officer of a responsible authority on request

THE PROTECTION OF CHILDREN FROM HARM

- The premises licence holder shall operate the Challenge 25 scheme, namely a policy whereby any person attempting to buy age-restricted products who appears to be under 25 will be asked for photographic ID to prove their age such as a passport or driving licence bearing a photograph, or the sale will be refused
- The premises licence holder shall display Challenge 25 posters in prominent positions within the premises, including at the point of sale

In addition to the above conditions, the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued.

The Sub-Committee's reasons for imposing the sanction of suspension together with additional conditions were due to concerns expressed by West Midlands Police. The Sub-Committee noted from the Report that it was West Midlands Police who had brought the application for the review of the licence, due to a recent visit to the shop in response to suspicions about the sale of a vape product to an underage person. Full details of this were in the Report.

The licence holder could not attend in person but was represented at the meeting by his solicitor; the designated premises supervisor (wife of the licence holder) also attended the meeting.

The playing of the Police bodycam footage (recorded during the initial visit that took place on the 2nd June 2023) was shown in private session after the Sub-Committee decided to exclude the public from that particular part of the hearing as the public interest in so doing outweighed the public interest in that part of the hearing taking place in public. Neither party objected to this course. During the playing of the bodycam footage the Sub-Committee observed the style of operation seen on the day of the visit.

West Midlands Police then addressed the Sub-Committee on their findings - exactly as described in the Committee Report. The Police's main concerns were around staff training and lack of knowledge around the licensing objectives, a stock of illegal vape products, a stock of single cigarettes, and unsuitable items found behind the counter (a kitchen knife and an old hockey stick). The Police were also worried about a stock of disposable cups behind the counter, as they had found that other premises sometimes gave these out to customers purchasing alcohol to drink on the street rather than at home.

Thereafter, discussions had been held with those at the premises. The Police noted that whilst the licence holder and designated premises supervisor were aware that they could not sell age-restricted products to under 18s, they had not been able to name the four licensing objectives. They had stated to Police that they had not undergone any training for a considerable time. The licence holder had confirmed that he could not operate the CCTV system by himself, and had therefore left all dealings with the CCTV to his son. His answers about Challenge 25 were also unsatisfactory. All in all, the Police, who were the experts in crime and disorder, did not have confidence in the premises to uphold the licensing objectives.

The Members asked the Police for their views on the appropriate course to take. The Police replied that having seen "the multitude of breaches at the premises and then the complete lack of knowledge around the licence", the Sub-Committee ought to consider all options, as per the Committee Report.

The Police said that whilst they did not wish to lead the Members, they felt that what had been observed at G & G Wines had created "the most serious lack of confidence" in the style of operation. However, the Police stopped short of giving a recommendation as to the appropriate course of action.

The Sub-Committee then heard from the solicitor representing the licence holder. The premises' background was that it had been trading for over four decades and was a well-known local shop which served the community. In the past, they had offered a wide range of different products including fresh fruit and fresh vegetables.

The kitchen knife had been behind the counter since the days when they had been chopping and serving fruit to customers; whilst they no longer offered that, the kitchen knife had remained there. It was completely denied by the premises that the knife was behind the counter in order to be used as a weapon. The solicitor observed that the person manning the till during the Police visit had known nothing about either the knife or the hockey stick, and had definitely not been advised to use them as weapons.

The premises also denied that there was anything sinister about the stock of paper cups, which were used by the licence holder himself for his own drinks whilst working. The same was true of the stock of single cigarettes behind the counter, which were the licence holders own to smoke; the premises completely denied that they had ever sold single cigarettes to customers.

The solicitor acknowledged that a small quantity of illegal vapes had been found under the counter but asked the Sub-Committee to note that the majority of vapes in the shop were legal and above the counter. He further remarked that the premises had not knowingly sold the illegal vapes. A sales representative had come to the shop and had given some samples, which the licence holder had put under the counter. They had not been put on a display stand like the other, legal, vape products. As a result of the Police visit, those at the premises had now familiarised themselves with the regulations governing the sale of vape products.

Regarding the Police comments about inadequate training, the premises acknowledged that the person behind the till at the time of the Police visit had not had sufficient training, particularly regarding the licensing objectives, but directed the Sub-Committee's attention to the evidence in the bundle of documents submitted in advance of the meeting, which was in the Report. The bundle of documents outlined the work that had been done to improve standards at G & G Wines.

The solicitor observed that the shop had traded without any issues for over 40 years, and had operated under an old-style Justices' Licence (Licensing Act 1964), which had been converted in 2005. The solicitor had advised both the licence holder and designated premises supervisor to undertake the Level 2 personal licence holder training; the two certificates in the Report confirmed that this had been completed by both of them. In addition, the person who had been at the till during the Police visit had also passed the Level 2 course for personal licence holders, said the solicitor.

Everyone involved with the sale of alcohol at the shop therefore had up to date training; they all understood the Challenge 25 policy and the importance of being vigilant about potential underage sales. Also in the Report were photographs to show that notices had been placed around the store regarding Challenge 25. All

at the premises were fully aware of the importance of the Challenge 25 requirements.

Regarding underage sales in general, the solicitor directed the attention of the Members to the documents from Camelot in the Committee Report, namely the two letters of congratulations for passing their underage test purchases (occasions when the company had sent an underage person into the shop to buy a lottery ticket, and the sale had been refused).

Moreover, there had been “a complete overhaul in the last few weeks of the processes followed at the store”, said the solicitor. A refusals book had been created for immediate use, and an order placed for a proper refusals book of the type widely used at licensed premises. In future, all stock would be purchased from a Cash and Carry rather than from any sales representative, which would avoid any further illegal vape products finding their way into the premises.

The solicitor reminded the Sub-Committee that the licence holder and the shop were very well known in the community, and had not come to the attention of the Police before, across 40 years of trading. He repeated that the shop had not knowingly been selling to underage persons, and asked the Sub-Committee to reflect on whether, if underage sales were truly a problem at the premises, some issues would have come up during the 40 years prior to the instant matter.

The current position was that with the overhaul of the operating style, the successful completion of the highest level training possible for personal licence holders, the adoption of the Challenge 25 policy, and the implementation of the refusals register, the premises was confident that it could promote the licensing objectives properly.

In summing up, the Police accepted that there had been a lawful excuse for the kitchen knife behind the counter, and remarked that that was why the person behind the till had not been arrested for possessing an offensive weapon. Leaving that issue aside though, the Police found many of the explanations given in the meeting to be “implausible”, and reiterated that the manner in which the shop had been operating was causing concern.

However, the solicitor reminded the Members that the relevant issue was the additional work which had been undertaken as a result of the Police visit. The premises had accepted the Police comments about the lack of training and lack of knowledge, and had resolved this immediately via undertaking additional qualifications.

The solicitor invited the Police to return to the premises to examine the new style of operation. He reminded the Members that 40 years was a long time to have been trading, and if G & G Wines were genuinely an unsatisfactory premises, it would surely have attracted the attention of both the Police and the City Council at an earlier stage in its trading history.

When deliberating, the Sub-Committee was aware that under paragraph 11.20 of the Guidance issued under s182 of the Act it should seek to establish the cause of the concerns that the representations identified, and that the remedial action

taken should generally be directed at those causes, and should always be no more than an appropriate and proportionate response to address the causes of concern that had instigated the Review.

Bearing this in mind, the Sub-Committee reflected carefully on the guidance given in paragraph 11.20 when making its decision. The Members carefully reviewed the submissions of the Police, and noted that the Police had not made a specific recommendation as to the course to be adopted.

The Sub-Committee accepted that the premises was a hub of the community as it had been there for so long. The Sub-Committee also agreed that it was more than likely that a genuinely unsatisfactory operating style would have been discovered earlier in the 40-year history of trading.

The solicitor had stated that the correct course was to consolidate the complete overhaul of the operation which had begun in recent weeks, by placing conditions onto the licence to ensure the promotion of the licensing objectives. The Sub-Committee determined that this was the correct course, and resolved to modify the conditions by adding new conditions to cover the areas of concern.

The solicitor stated that a suspension of the licence was not required; however, on this point, the Sub-Committee did not agree with him. Instead, the Members felt that a short period of suspension would enable the premises to finalise all arrangements, ready for a fresh start in a week's time. The Members considered that good progress had been made in bringing the operation up to the standard expected, and a one-week suspension would give time for all matters to be dealt with, which would enable the premises to reopen and trade safely.

The Sub-Committee considered this to be a sensible course to ensure that the premises could uphold the licensing objectives, and felt that it was important that there should be sufficient time for the licence holder to get everything in order properly, before resuming trading with all the new measures in place.

The Sub-Committee therefore resolved that a suspension of the licence for one week would give proper time for all the new conditions to be implemented. Thereafter, the premises could reopen safely.

The Sub-Committee considers the conditions, and the one-week suspension to give sufficient time to implement the measures, to be appropriate, reasonable and proportionate (as per paragraph 11.20 of the Guidance issued under s182 of the Act) to address the concerns raised by West Midlands Police.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under section 182 of the Licensing Act 2003 by the Secretary of State, the application for Review, the written representations received and the submissions made at the hearing by West Midlands Police and by the solicitor for the premises licence holder (together with the designated premises supervisor).

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the

Licensing Sub-Committee B – 1 August 2023

Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

The determination of the Sub-Committee does not have effect until the end of the twenty-one day period for appealing against the decision or, if the decision is appealed against, until the appeal is determined.

BIRMINGHAM CITY COUNCIL**PUBLIC REPORT**

Report to:	Licensing Sub Committee B
Report of:	Director of Regulation & Enforcement
Date of Meeting:	Tuesday 29th August 2023
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	Diamond Food and Wine, 1001 – 1003 Tyburn Road, Erdington, Birmingham, B24 0TQ
Ward affected:	Pype Hayes
Contact Officer:	Bhapinder Nandhra, Senior Licensing Officer, licensing@birmingham.gov.uk

1. Purpose of report:

To consider an application to review a Premises Licence.

2. Recommendation:

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

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

3. Brief Summary of Report:

Review application received on 12th July 2023 from the Chief Inspector of Weights & Measures in respect of Diamond Food and Wine, 1001 – 1003 Tyburn Road, Erdington, Birmingham, B24 0TQ.

Representations have been received from West Midlands Police and Birmingham City Council Licensing Enforcement.

4. Compliance Issues:**4.1 Consistency with relevant Council Policies, Plans or Strategies:**

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

5. Relevant background/chronology of key events:

The Chief Inspector of Weights & Measures applied on 12th July 2023 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for Diamond Food and Wine, 1001 – 1003 Tyburn Road, Erdington, Birmingham, B24 0TQ.

Representations have been received from West Midlands Police and Birmingham City Council Licensing Enforcement, as responsible authorities, which are attached at Appendices 1 & 2 respectively.

The Review application is attached at Appendix 3.

The Premises Licence is attached at Appendix 4.

Site location plans are attached at Appendix 5.

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

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

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

6. List of background documents:

Copies of the representations as detailed in Appendices 1 & 2
Review Application Form, Appendix 3
Copy of Premises Licence, Appendix 4
Site location plans, Appendix 5

7. Options available

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

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

From: Christopher Jones
Sent: 14 July 2023 11:17
To: Licensing
Subject: Review application Licence No. 4073 - Diamond Food & Wine

Good Morning,

Please find attached West Midlands Police supporting representation to Trading Standards review of;
Diamond Food and Wine
1001-1003 Tyburn Rd
Erdington
B24 0TQ

Regards

Chris Jones 55410

Central Licensing Team West Midlands Police

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

Crime No. URN

Statement of 55410 Christopher Jones

Age if under 18 018 (if over 18 insert 'over 18')

Occupation Licensing Officer

This statement (consisting of 03 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature  (witness)Date 14th July 23Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

I am employed by West Midlands Police as a Licensing Officer currently stationed at Police Headquarters, Lloyd House, Colmore Circus Birmingham B4 6NQ working within the Central Licensing Team.

I am making this statement as West Midlands Police supporting representation to Trading Standards review application for premises licence 4073 – Diamond Food and Wine, 1001-1003 Tyburn Road, Erdington. B24 0TQ.

The review was submitted by Trading Standing after finding a large quantity of illegal vapes, illicit tobacco, a large bottle of non-duty paid alcohol and a number of nitrous oxide cannisters at the premises.

All these items were found at the premises on 16th February 2023 during an operation that was conducted in various premises throughout the Birmingham area.

It is clear from the review paperwork that Trading Standards have a history with this premises and have visited on two occasions prior to the 16th February 23.

These visits, prior to 16th February 23, were both as a result of Trading Standards receiving complaints / intelligence about the premises selling illegal vapes, illicit cigarettes and the illegal sale of nitrous oxide.

On both these visits, 23rd August 22 & again on 10th November 22 the premises licence holder who is also the DPS, Mr Bay, was left a 'traders notice' by Trading Standards which gave him advice on the relevant legislation and what he should be doing to comply with that legislation.

All the items seized from the premises on 16th February 23, except for the bottle of alcohol, were items that has previously been mentioned in the complaints / intelligence received by Trading Standards and items that the premises licence holder had previously been advised about.

Signature

Signature witnessed by

03/2016

OFFICIAL – (when complete)

OFFICIAL – (when complete)

MG11

Crime No.

URN

Statement of 55410 Christopher Jones

It is quite evident that Mr Bay had decided to ignore the visits and advice given by Trading Standards, clearly putting money and profit over the promotion of the licensing objectives.

Although it is not illegal to possess nitrous oxide, under the Psychoactive Substances Act 2006 it is an offence to supply nitrous oxide if a person knows, or is reckless as to whether, it will be used for its psychoactive effects.

The fact that the nitrous oxide was hidden from public view with balloons* next to the cannisters, together with the intelligence regarding the of sale nitrous oxide to children would strongly suggest that the premises has been reckless regarding the sale of nitrous oxide.

*Nitrous Oxide cannisters are often emptied into balloons and then inhaled from the balloon.

There is no possibility that the tobacco and vapes seized by Trading Standard Officers could have been purchased through the legitimate supply chain, as they are illegal for sale in this country.

The purchase and resale of these illegal items are probably going to be made in cash and unlikely to be reflected in the business accounts with no tax or duty being paid. This would mean that these items could be sold at lower price than legitimate retailers, putting the legitimate retailers' businesses at risk as they would be unable to compete on price point.

As these items could not be purchased legitimately, the premises would therefore have no idea of the provenance of these products, not knowing if they were safe or what health effects these products could have on the general public.

A brief search of the internet shows the general consensus is that, no tobacco product is safe – the ingredients of illicit tobacco are unknown and not regulated. Illicit tobacco may contain higher levels of harmful chemicals.

The World Health Organization (WHO) state on their website: 'The illicit tobacco market may account for as much as one in every 10 cigarettes consumed globally, according to studies, the problem is particularly acute in Europe. The illicit trade poses a serious threat to public health because it increases access to tobacco products – often at cheaper prices – thus fuelling the tobacco epidemic and undermining tobacco control policies. It also causes substantial losses in tax and customs revenue for governments, and it contributes to the funding of international criminal activities.'

Mr Bay, as the premises licence holder and DPS has been given advice on previous occasions, prior to the seizure of items on 16th February 23 and has quite clearly shown he is not prepared to trade in a legal manner.

Signature

03/2016

Signature witnessed by

OFFICIAL – (when complete)

Crime No.

URN

Statement of 55410 Christopher Jones

It is obvious that Mr Bay prioritises the making of money and profit over the promotion of the licensing objectives – the prevention of crime and disorder, the promotion of public safety and protection of children from harm.

It is very concerning that identical complaints / intelligence about the sale of the same illicit products are still being received by Trading Standards, as the previous intelligence was proved to be correct.

West Midlands Police fully support the Trading Standards recommendation that the premises licence be revoked.

[Redacted signature]

[Large handwritten mark, possibly a stylized 'Z' or '2']

Signature

[Redacted signature]

Signature witnessed by

03/2016

From: Christina McCullough
Sent: 09 August 2023 21:52
To: Licensing
Cc: Shawn Woodcock
Subject: REPRESENTATION - DIAMOND FOOD AND WINE, 1001-1003 TYBURN ROAD, ERDINGTON, BIRMINGHAM B24 0TQ

Dear Licensing,

**REPRESENTATION OF BIRMINGHAM CITY COUNCIL, LICENSING ENFORCEMENT
DIAMOND FOOD AND WINE, 1001-1003 TYBURN ROAD, ERDINGTON, BIRMINGHAM
B24 0TQ
PREMISES LICENCE NUMBER 4073**

I, Christina McCullough, a Licensing Enforcement Officer, wish to submit representations on behalf of Birmingham City Council, Licensing Enforcement, in respect of the application for the review of the premises licence of Diamond Food and Wine, 1001-1003 Tyburn Road, Birmingham B24 0TQ submitted by Trading Standards.

As part of my duties, I have access to records held by Birmingham City Council Licensing in respect of licences issued in accordance with the Licensing Act 2003. From these records I can state that Nuri BAY is both the designated premises supervisor (DPS) and the Licence holder of the premises.

As a result of the review I visited the premises on 9th August 2023 and conducted an inspection to assess compliance with the premises licence.

I identified the following failures:

1. The entrance door is not fitted with an electronic locking device or similar nor is it closed as required between the hours of midnight until the close of business. I was informed by staff members that the door is propped open until 1.00 am when the business closes.
2. Staff had not been trained as required by the premises licence. There are, therefore, no training records available. At the time of my visit, 2 young gentlemen were serving in the shop, and the manager, Kazim, was upstairs sleeping. I am informed that the licence holder is in Turkey at the moment and Kazim, the Manager, is a personal licence holder.
3. It is a requirement of the licence that a member of staff is always on duty who is trained and able to show and download images from the CCTV system. This was not the case even when the Manager, Kazim, came into the shop to meet me he could not operate the CCTV. I cannot therefore state how long images are retained – a retention period of 31 days is required by the premises licence.
4. Notices are not displayed, as required, requesting that customers respect local residents.
5. Pages 1 and 2 of the full licence are displayed on the premises. The staff at the premises spoke to the licence holder on the telephone but were unable to locate the summary licence.

I issued a notice to the premises detailing the breaches – Attached as appendix 1.

Considering that we are almost at the end of the representation period for the review I would have expected that the premises had tried to get their house in order. In fact, of all the conditions on the licence the only one that I am satisfied that they are compliant with is that they displayed "Challenge 25" posters. All of the other conditions were failed or could not be proven.

Taking into account the severity of the allegations in this matter, Licensing Enforcement do not have any confidence that the licence holder is capable of promoting the Licensing objectives at this premises, in particular the prevention of crime and disorder, the promotion of public safety and the protection of children from harm. Therefore, Licensing Enforcement would ask that the premises licence be revoked.

Regards

Christina McCullough
Licensing Enforcement Officer

Chris Neville
Head of Licensing

M. Nuri Bay
1001 Tyburn Rd.
Erdington B24

Enquiries to: Chris McLaughlin

Telephone: [REDACTED]

Date: 9.8.2023

Legislation: Licensing Act 2003 - Premises licence
407313

The following matters have been identified which do not comply with the above legislation:

Entrance door is not fitted with an electronic
lock and remains propped open until closure
at 1am.

Staff are not trained and training records
cannot be produced. 2 members of staff
present called the manager from
upstairs where he was asleep.
Staff cannot access CCTV system.

Signage is not displayed advising customers
to leave quietly.

The Summary cannot be produced. Pages 1 &
2 of the full licence are displayed. The rest of
the licence has been produced.

Received by: [REDACTED]

Authorised Officer: [REDACTED]

It is an offence to offer any regulated
activity when you are not fully
compliant with the licence for which
legal proceedings could be instigated.



The Government Standard

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I Paul Ellson (on behalf of Martin Williams, Chief Inspector of Weights & Measures)

Apply for the review of a premises licence under section 51 of The Licensing Act 2003 for the premises described in part 1 below.

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
DIAMOND FOOD AND WINE 1001-1003 TYBURN ROAD ERDINGTON BIRMINGHAM	
Post town BIRMINGHAM	Post code (if known) B24 0TQ

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

Number of premises licence or club premises certificate (if known)
4073

Part 2 - Applicant details

I am

Please tick ✓ yes

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

☐

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

YES

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

☐

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

Please tick ✓ yes

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

Surname

First names

I am 18 years old or over

Please tick ✓ yes

☐

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address; Paul Ellson Birmingham Trading Standards 1-3 Ashted Lock Way Aston Birmingham B7 4AZ Our Ref: 10635598/10620703
Telephone number (if any)
E-mail address (optional) k

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

- | | |
|---|---------------------------------|
| | Please tick one or more boxes ✓ |
| 1) the prevention of crime and disorder | Yes |
| 2) public safety | Yes |
| 3) the prevention of public nuisance | No |
| 4) the protection of children from harm | Yes |

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

On 23rd August 2022 Trading Standards Enforcement Officer Paul Ellson visited the premises of Diamond Food and Wine, 1001-1003 Tyburn Road, Erdington, Birmingham, B24 0TJ. This was in response to a series of complaints received during early August 2022. The complaints alleged that the business was selling/supplying illegal tobacco, illegal -cigs & vapes, large quantities of Nitrous Oxide and that these products were been supplied to persons under 18 years old. During the visit Officer Ellson spoke to both an employee of the business called Mr Ali Saner and Mr Nuri Bay the licence holder and the Designated Premises Supervisor (DPS). A Trader Advisory Notice /Officer Warning was issued and Officer Ellson explained at length the legislation surrounding the sale of tobacco, the sale of nicotine inhaling products, commonly known as e-cigs or vapes and the sale of Nitrous Oxide. This included information under the Tobacco and Related Products Regulations 2016, Standardised Packaging of Tobacco Products 2015, The Children and Young Persons Act 1933 (and its' amended & associated legislation), the Nicotine Inhaling Products (Age of Sale and Proxy Purchasing) Regulations 2015 and the Psychoactive Substances Act 2016. This Notice also contained the warning statement;

"THIS AUTHORITY HAS RECEIVED INFORMATION THAT YOU ARE SUPPLYING /SELLING ILLEGAL TOBACCO PRODUCTS, E-CIGS +VAPES AND NITROUS OXIDE. ALSO YOU ARE SUPPLYING SUCH PRODUCTS TO PERSONS UNDER 18 YEARS OLD. ALL THE ABOVE ACTIVITIES ARE ILLEGAL .ONLY TOBACCO THAT FULLY COMPLIES WITH UK LAW CAN BE SUPPLIED TO PERSONS OVER 18 YEAR OLDS ONLY . ALL E-CIGS & VAPES MUST COMPLY WITH UK LAW (600PUFFS) AND SOLD TO OVER 18YEAR OLDS ONLY .NITROUS OXIDE IS RESTRICTED TO ALL PERSONS UNDER THE PSYCHOACTIVE SUBSTANCES ACT 2016. "

Mr Bay was also informed that it was his responsibility to check and ensure all his stock of cigarettes, e-vapes and alcohol complied fully with UK law. To assistance him and his staff information was issued cover all these pieces of legislation. Mr Bay signed the Notice and received all the information. Officer Ellson also noted that there was no Refusal Register at the site

Subsequently Trading Standards received two further complaints also alleging that the premises was selling illegal tobacco, illegal vapes, Nitrous Oxide and single cigarettes. On 10th November 2022 Officer Ellson again visited Diamond Food and Wine, 1001-1003 Tyburn Road B24 0TJ. A further Trader Advisory Notice/Officer Warning was issued to Mr Bay, he was informed about the allegations and again issued with comprehensive advice and instructions on how to comply with legislation covering tobacco, e-cigs/vapes, nitrous oxide and alcohol. The Trader Advisory Notice/Officer warning this time also bore the statement 'Alcohol must not be sold to any person under 18yrs old. Test purchases and inspections are done to ensure compliance.' The Notice and the information

was again given to Mr Bay.

A further two complaints were received in December 2022 again alleging the sale/ supply of illegal cigarettes, the sale of single cigarettes, the sale of nitrous oxide and sale of age restricted items to persons under 18 years old.

On 16th February 2023 the premises of Diamond Food and Wine, 1001-1003 Tyburn Road, B24 0TJ. was included in an operation to detect and seize illicit and non-compliant tobacco products using search dogs. This was a city-wide operation. At approximately 14.50 pm a team of Trading Standards enforcement staff along with West Midlands Police Licencing Officers entered the premises and carried out an inspection and search of the premises with the assistance of a tobacco search dog. Mr Bay was present during this visit. Once the necessary paperwork had been issued the inspection and search began.

Officer Ellson located 670 units of illegal e-cigs/ vapes in a stockroom at the rear of the premises along with 11 boxes of Nitrous Oxide bomblets hidden behind some boxes and a large Nitrous Oxide catering charger hidden in a cupboard under the sink which also contained hundreds of packs of children's balloons. Officer Ellson also discovered a further 200 illegal e-cigs vapes under the counter at the front of the premises and 303 illegal vapes on the counter display. In addition a 4.5 litre bottle of High Commissioner Whiskey was discovered on the alcohol display shelving that bore no UK duty stamp and was therefore illegal for sale in the UK. Other officers discovered over 300 packets of illegal tobacco products, both cigarettes and hand rolling tobacco under the counter at the front of the shop along with a further quantity of illegal e-cigs/vapes. All the illegal items were seized and removed from the premises.

Since the seizure of the illegal items a further 5 complaints have been received alleging that the premises is continuing to supply illegal tobacco products, Nitrous Oxide, and age restricted products, tobacco and alcohol to persons under 18 years old.

PLEASE PROVIDE AS MUCH INFORMATION AS POSSIBLE TO SUPPORT THE APPLICATION

The Licence for Diamond Food and Wine , 1001-1003 Tyburn Road , B24 0TJ Is held by Mr Nuri Bay and has been since July 2022. The Licence itself contains basic conditions. Bearing in mind the discovery of illegal tobacco products, illegal e-cigs/vaping products, illegal alcohol and concealed Nitrous Oxide on the premises after the premises had been given two warnings and ample time to comply. The management control of the premises and adherence to the licencing objectives can best be described as lamentable and at worse a threat to public safety and to persons under the age of 18.

Previous history of this shop.

Since August of 2022 the premises has had 12 complaints made against it all of a similar nature that it is supplying illegal product versions of tobacco and e-cigs/vapes, as well as Nitrous Oxide and that these products as well as alcohol has also been supplied to young people. Originally Mr Bay blamed the previous owner and employees for failings of the premises. This appears to be patently untrue. Despite attempts by Officer Ellson to engage, explain, and even encourage Mr Bay to comply there have been further consumer complaints.

Recommendations.

An alcohol licence confers on a business a responsibility towards its customers and the community around it. This responsibility should mean that the citizens of Birmingham have confidence in the management of the shop and, especially that they do not trade carelessly or illegally. There should be obligations to ensure good practice, safety of the public and the greater welfare and protection of the local community. The Licence is a privilege not a right. Under the current licence I can not see that this is taking place. Selling and dealing in illicit tobacco is a serious matter for numerous health reasons let alone the fact there is no duty paid on the items. The health risks of selling Nitrous Oxide to be mis-used can only be far worse, especially as persons become rapidly intoxicated with all the accompanying dangers it entails . The casual attitude to flouting the law and that privilege the Licence bestows reflects harshly on Mr Bay. It must also be remembered that the vast majority of retailers strive to comply with both the letter and the spirit of the Licence and do not treat their community or the law with casual indifference . These premises have continued to flout the law so I would request a withdrawal/revocation of the Licence.

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

If yes please state the date of that application

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

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

Please tick ✓ yes

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

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE

WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

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

Signature



Date

12/07/23

Capacity Trading Standards Enforcement Officer

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

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

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



LICENSING ACT 2003

PREMISES LICENCE

Premises Licence Number:

4073 / 5

Part 1 - Premises details:

Postal address of premises, or if none, ordnance survey map reference or description	
1001-1003 Tyburn Road Erdington	
Post town:	Post Code:
Birmingham	B24 0TJ
Telephone Number:	
Not Specified	
Where the licence is time limited the dates	
N/A	
Licensable activities authorised by the licence	
M2 Sale of alcohol by retail (off the premises)	
The times the licence authorises the carrying out of licensable activities	
Monday - Sunday	06:00 - 03:00 M2
The opening hours of the premises	
Monday - Sunday	06:00 - 03:00
Where the licence authorises supplies of alcohol whether these are on and/or off supplies	
Off Supplies	

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Mr Nuri Bay	
Post town:	Post Code:
Telephone Number:	
Email	

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

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

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol	
Licence Number 12134	Issuing Authority BIRMINGHAM CITY COUNCIL

Dated 11/07/2022

SHAID YASSER
Senior Licensing Officer
For Director of Regulation and Enforcement

Annex 1 – Mandatory Conditions

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

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

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

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

Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

Entrance door will be fitted with an electronic locking device or similar that will be utilised between the hours of midnight until close at 03:00 daily. This will ensure staff have control of customers entering their premises.

All staff will be trained for signs of persons who are intoxicated and made aware of licensing legislation regarding the sale of alcohol to persons intoxicated. Also regarding under age sales, proxy sales and legislation regarding the consumption of alcohol purchased from the premises and consumed in the vicinity. All this training will be recorded on premises and be made available to responsible authority immediately on request.

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

CCTV will be digital recorded for up to 31 days and will be made available on request to all licensing authorities. There will always be a member of staff on duty who is trained and able to show and download images from the system during opening hours. It will be in recording operation during opening hours and it will cover all licensable activity areas of the premises.

A full CCTV system to Police specifications at the premises.

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

No enforceable conditions identified from operating schedule.

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

Signage of Challenge 25 policy to be on display at all times. Signage displaying to customers to "Respect Local residents, please leave quietly" to be on display around location and especially at the exit.

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

A challenge 25 Policy shall be enforced at the premises. The Location will promote Challenge 25 policy by and training staff on different ID methods. This training will be recorded on premises.

Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

N/A

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

N/A

3c) Committee conditions to promote public safety

N/A

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

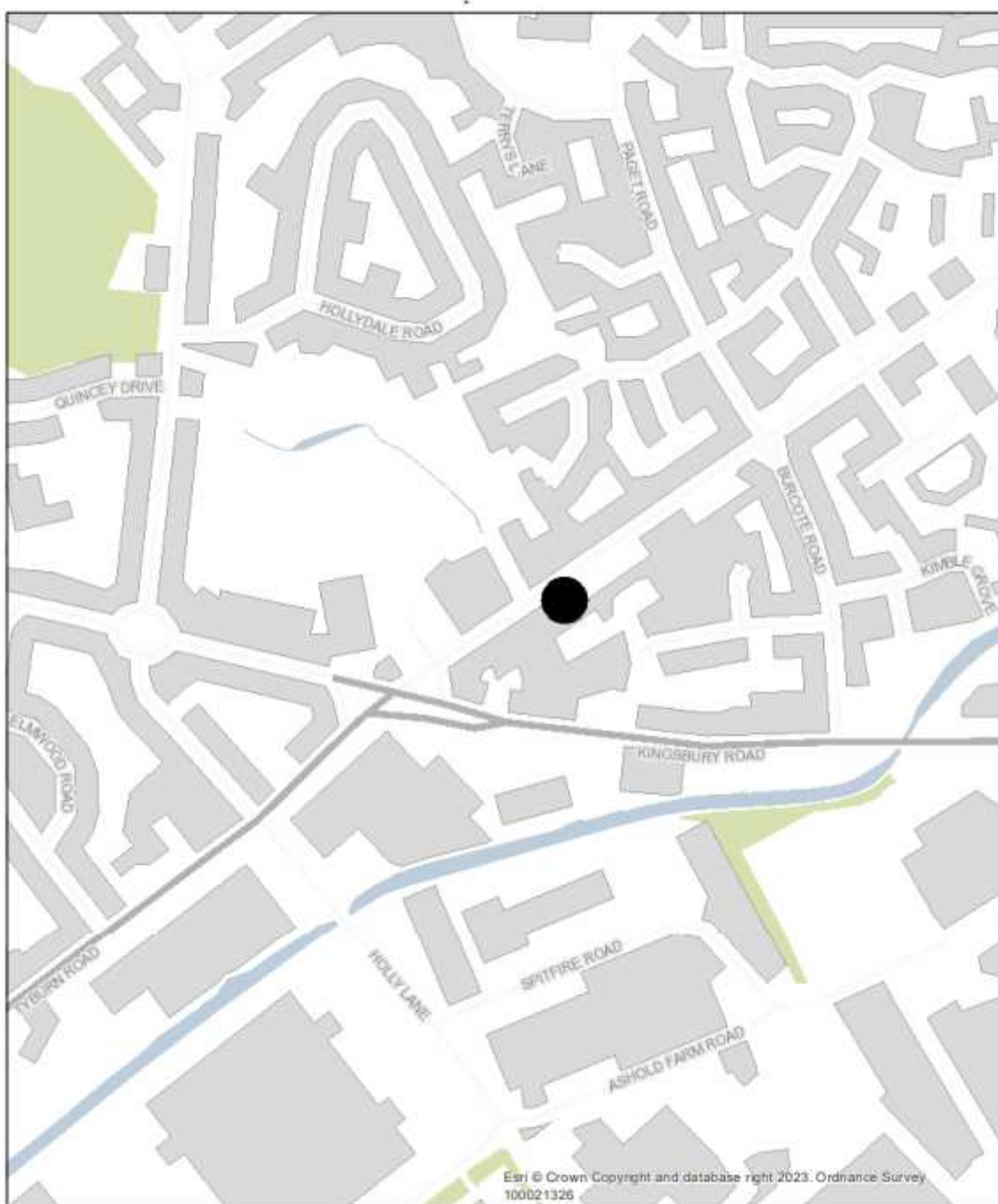
N/A

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

N/A

Annex 4 – Plans

The plan of the premises with reference number **125271-4073/5** which is retained with the public register kept by Birmingham City Council and available free of charge for inspection by appointment only. Please call the Licensing Section on 0121 303 9896 to book an appointment.





----- Forwarded Message -----

From: Paul Ellson
To: Mahir Kilic <[\[redacted\]](#)>
Cc:
Date: Mon, 31 Jul 2023 07:50:45 +0000
Subject: **RE: re[2]: Review of Diamond Food and Wine, 1001 - 1003 Tyburn Road, Erdington, Birmingham, B24 0TQ**

Dear Mahir Kilic

No underage sale test purchase operations have taken place at the premises so there is no evidence , the complaints are allegations as stated in the review .

Yours sincerely

Paul Ellson.

Paul Ellson
Enforcement Officer
Birmingham Trading Standards
Ashted Lock
1-3 Ashted Way
Birmingham
B7 4AZ
PO Box 12971

www.birmingham.gov.uk/tradingstandards



CAB Consumer Advice Line: 08454 04 05 06

CAB Website: <http://www.adviceguide.org.uk/>

Fair Regulation for all - achieving a safe, clean, green and fair trading city for residents, business and visitors

From: Mahir Kilic <[\[redacted\]](#)>
Sent: 31 July 2023 08:32
To: Paul Ellson
Subject: re[2]: Review of Diamond Food and Wine, 1001 - 1003 Tyburn Road, Erdington, Birmingham, B24 0TQ

Dear Mr Ellson,

Thank you for the below email. I've requested to obtain any evidence you may rely on the alleged underage sales that you mentioned in your representations not the complaints!
Do you have any evidence for the alleged underage sales?

Your Sincerely,

Mahir Kilic

> Dear Mahir Kilic

The information as requested, complaints received-

1/10/20 Underage sales of Alcohol & single cigarettes .

5/8/22 Possible underage sales of Cigarettes, nitrous oxide, e-cigs/vapes

8/8/22 Underage sales of Nitrous oxide and cigarettes

31/8/22 Underage sales of Single cigarettes, tobacco, illegal e-cigs/vapes, nitrous oxide.

1/11/22 Underage sales on all age restricted items .

15/12/22 Underage sales of Nitrous Oxide

29/12/22 Underage sales of Single illicit cigarettes to children plus nitrous oxide

23/2/23 Underage sales of illicit tobacco to children and nitrous oxide.

Yours sincerely

Paul Ellson.

Paul Ellson
Enforcement Officer
Birmingham Trading Standards
Ashted Lock
1-3 Ashted Way
Birmingham
B7 4AZ
PO Box 12971

www.birmingham.gov.uk/tradingstandards

CAB Consumer Advice Line: 08454 04 05 06

CAB Website: <http://www.adviceguide.org.uk/>

Fair Regulation for all - achieving a safe, clean, green and fair trading city for residents, business and visitors

From: Mahir Kilic

Sent: 27 July 2023 09:12

To: Paul Ellson

Cc: Nuri Bay

Subject: FWD: Review of Diamond Food and Wine, 1001 - 1003 Tyburn Road, Erdington, Birmingham, B24 0TQ

You don't often get email from . Learn why this is important

Dear Mr. Ellson,

I hope this message finds you well. I am writing to inform you that we have been designated as the licensing agent responsible for reviewing the application you recently submitted.

Upon receipt of your review application from the licensing team, we carefully examined its contents. We kindly request you to provide us with any evidence

pertaining to the alleged underage sales that you mentioned in your application. Time is of the essence, so we would greatly appreciate it if you could furnish this information as soon as possible. Doing so will allow us to proceed with addressing the matter promptly and in the best interests of our client.

Thank you for your cooperation in this regard. Should you have any questions or require further assistance, please do not hesitate to contact us.

Best regards,
Mahir Kilic

----- Forwarded Message -----

From: Mahir Kilic
To: Licensing
Cc:
Date: Tue, 25 Jul 2023 15:34:29 +0100
Subject: Review of Diamond Food and Wine, 1001 - 1003 Tyburn Road, Erdington, Birmingham, B24 0TQ

Dear Licensing Team,

I hope this email finds you well. I am writing to confirm that we have been appointed by Mr. Nuri Bay, the Premises License holder, to represent him in the review application process.

Our client has shared photographs of the review application via WhatsApp; however, the quality is not optimal. Therefore, we kindly request you to provide us with a copy of the review application and any accompanying supporting documents that you may have received thus far. This would greatly assist us in effectively representing our client's interests.

Furthermore, we would appreciate it if you could forward any future communication related to this review application to our office. Keeping us informed about the proceedings will ensure that we can stay up-to-date with the developments and respond promptly, if required.

We also require access to any relevant evidence supporting or pertaining to the claim of underage sales at the premises that has been mentioned in review application.

Please send the requested documents and correspondence to licensing@birmingham.gov.uk and if you have any queries or require additional information, feel free to reach out to us via email or phone at 020 72413636.

Kind Regards,

Mahir Kilic
Licensing Team
NARTS

T:

Birmingham City Council The information contained within this e-mail (and any attachment) sent by Birmingham City Council is confidential and may be legally privileged. It is intended only for the named recipient or entity to whom it is addressed. If you are not the intended recipient please accept our apologies and notify the sender immediately. Unauthorised access, use, disclosure, storage or copying is not permitted and may be unlawful. Any e-mail including its content may be monitored and used by Birmingham City Council for reasons of security and for monitoring internal compliance with the office policy on staff use. E-mail blocking software may also be used. Any views or opinions presented

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NG PASS

Name

nuri bay

Gender / Passenger type

Male / ADT

PNR / SEQ

AYRTJL / 0040

DEP / DEST

IST - LTN

Flight number

W9 4500

Flight date

19 / Aug / 2023

Travel document type

Passport

Travel document number

[REDACTED]

Expiry date

28 / Apr / 2024

Nationality

EU/EEA / GB

EXTRA CABIN BAG

Guaranteed in cabin area



1 Extra trolley bag 1 Free carry-on bag

55 x 40 x 23 cm

(Max 10 kg)



40 x 30 x 20 cm

To be placed under the
seat

CHECKED-IN BAGGAGE



1 Checked-in baggage

1 x max. 20 kg

CONFIRMATION CODE
AYRTJL

STATUS
Closed

FLIGHT NUMBER
W94500

Timestamp: 15 August 2023 11:49 AM

ISTANBUL

LONDON LUTON

19
AUG

13:15

4h 15m 

15:30

BOOKING DETAILS

INVOICES

PRICE DETAILS

PAYMENT DETAILS

Passengers

nuri bay



1 x Free carry-on bag (40 x 30 x 20 cm)



1 x 20 kg Checked-in baggage



WIZZ Priority



2F

TR

ISTANBUL

18.07.22 12 00 06



34.3.03

TR

ISTANBUL

19.08.23 48



23.03.03

TÜRKİYE CUMHURİYETİ

ISTANBUL

TR



09.01.23 53

34.3.03

00 1 00 30



-10° -5° 0° 5° 10° 15° 20° 25° 30° 35° 40° 45° 50° 55° 60° 65° 70° 75° 80° 85° 90° 95° 100°

20.03.23 46

ISTANBUL

23.04.23 50 36

23.04.23

KALOTINA

21.04.21

TASIT KAYDI YAKDIR
KABUKULE GÜMRÜK MÜDÜRLÜĞÜ
KAYIT NO: 12202001
SÜRE SONU: 21/04/2023
GÜMRÜGE TABİ EŞYAM YOKTUR.



Saint Peter's College

MMXII

Saint Peter's College is established in 2012 and
is an independent accreditation service in Great Britain



Certificate of Achievement

This is to certify that

Nuri Bay

has successfully completed

Personal Licence Level 2 (En)
refresher course

The candidate has attended the course in respect of the
following elements that comprise the course:

Licensing Law, Licensable activities and types of licences,
Personal Licences, Premises Licences, Temporary Event Notices -TEN, Offences,
Closure of premises, Protection of Children from Harm on Licensed Premises, Alcohol & Drugs
Responsible management of licenced premises

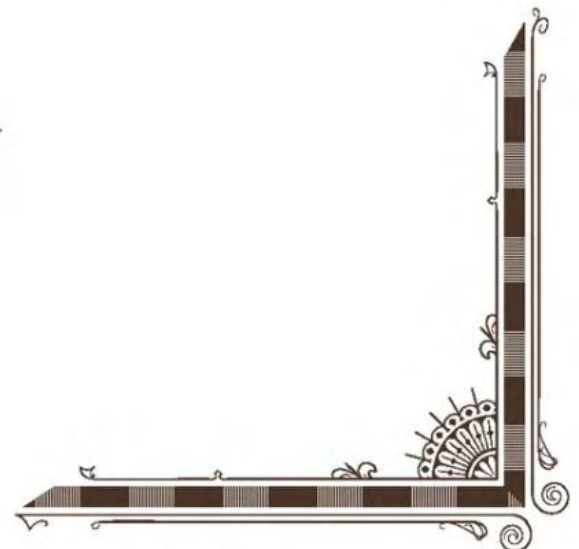
Raymond Bodell, Director
Saint Peter's College

Certificate No

2023-876

Issued on

August 9, 2023



Saint Peter's College

MMXII

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is an independent accreditation service in Great Britain



Certificate of Achievement

This is to certify that

Nuri Bay

has successfully completed

Prevention of Underage Sales (TR)
training course

The candidate has attended the course in respect of the
following elements that comprise the course:

Introduction and Legislation, Age verification policy
Know how to prevent unlawful sales, Proof-of-age documentation
Regular staff training and updates, Preventing proxy sales
How to keep refusal register, Displaying legal and other notices

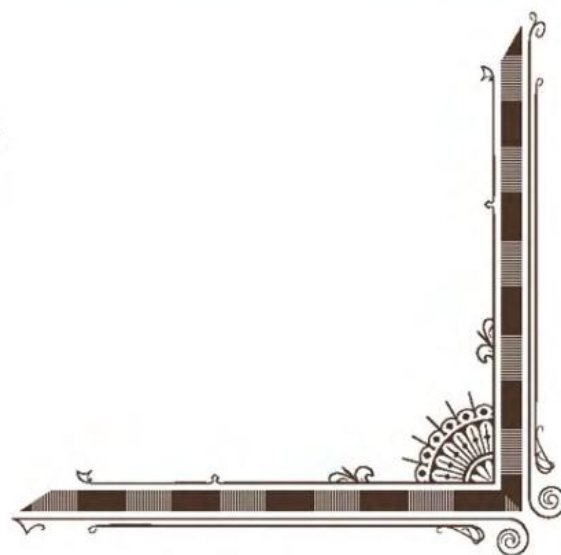
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Certificate of Achievement

This is to certify that

Kowshik Pasumarthi

has successfully completed

Prevention of Underage Sales (TR)
training course

The candidate has attended the course in respect of the
following elements that comprise the course:

Introduction and Legislation, Age verification policy
Know how to prevent unlawful sales, Proof-of-age documentation
Regular staff training and updates, Preventing proxy sales
How to keep refusal register, Displaying legal and other notices

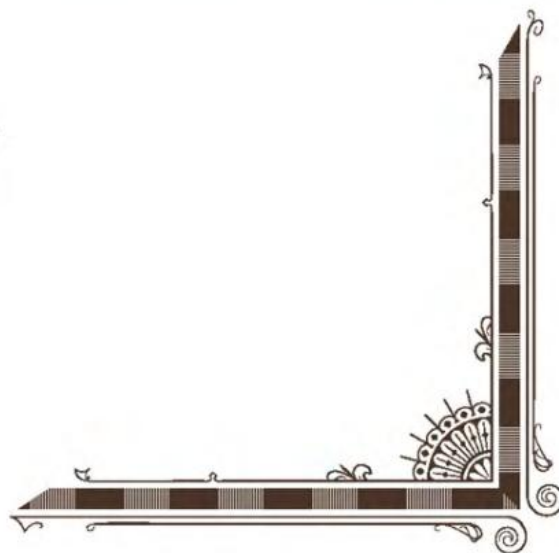
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Saint Peter's College

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is an independent accreditation service in Great Britain



Certificate of Achievement

This is to certify that

Kazim Sumbul

has successfully completed

Prevention of Underage Sales (TR)
training course

The candidate has attended the course in respect of the
following elements that comprise the course:

Introduction and Legislation, Age verification policy
Know how to prevent unlawful sales, Proof-of-age documentation
Regular staff training and updates, Preventing proxy sales
How to keep refusal register, Displaying legal and other notices

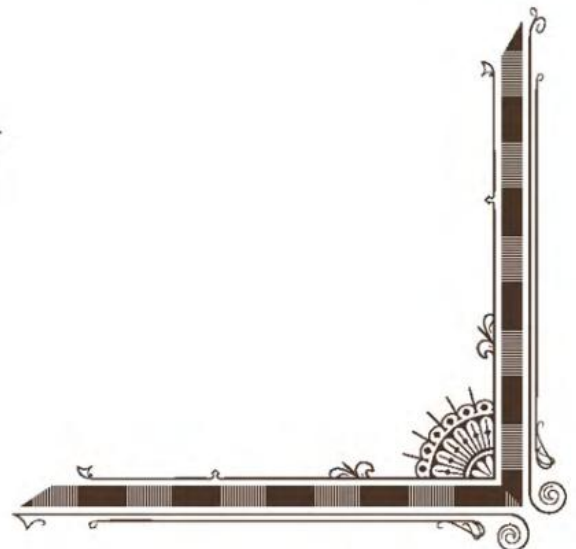
Raymond Bodell, Director
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Personal Licences, Premises Licences, Temporary Event Notices -TEN, Offences,
Closure of premises, Protection of Children from Harm on Licensed Premises, Alcohol & Drugs
Responsible management of licenced premises

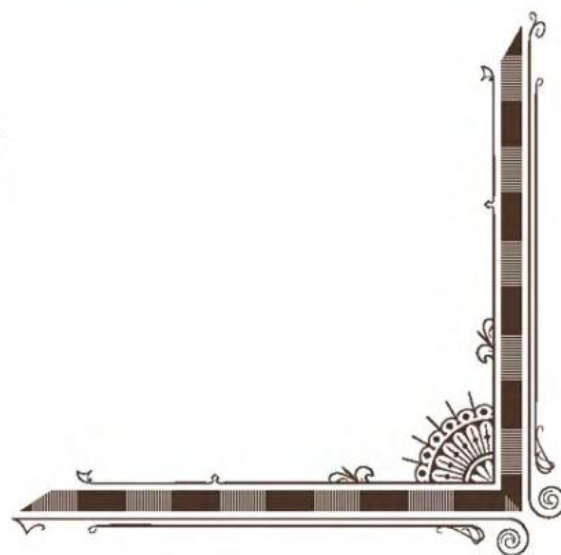
Raymond Bodell, Director
Saint Peter's College

Certificate No

2023-880

Issued on

August 9, 2023



**NO ID
NO
SALE!**

REFUSALS REGISTER

If a customer fails to produce valid photo-ID which confirms his or her age, the sale should be REFUSED and recorded in this Refusals Register, after the customer has left the premises.

Keep the Register close to the counter but out of sight.

The sale should be REFUSED if the customer is unable to prove he or she is:

18 or older if the product is **LOTTERY**.

18 or older if the product is **TOBACCO, ALCOHOL, FIREWORK, SOLVENT or KNIVES. + ECIGS, VAPE PRODUCTS**

All staff should know where this Refusals Register is kept, and should write an entry whenever an age-related sale is REFUSED.

If staff sell an age-restricted product to under 16s (lottery) or to under 18s (tobacco/alcohol/fireworks/solvents/knives) both manager and staff are liable to conviction and a fine and/or prison (see guidance, right).

The manager will sign off and date each page of this register, which will be kept in a safe place away from customers. The Register may need to be produced in the event that local authority enforcement officers undertake test purchases or other enforcement activity, or if a threat of legal action against the premises' manager or staff arises.

**ECIGS, VAPE PRODUCTS
OVER 18 YEARS OLD**

MAXIMUM PENALTIES

18

TOBACCO

£2,500 fine for selling tobacco to a person below the age of 18
£1,000 fine for failing to display the Statutory Notice

3 underage sales in a 2 year period may lead to a sanction resulting in the loss of either personal or business right to sell tobacco for 12 months. £20,000 for breaking a sanction [applies only in England and Wales]

CIGARETTE LIGHTER FUEL & SOLVENTS

£5,000 and/or 6 months prison

ALCOHOL

£5,000 fine for selling alcohol to a person below the age of 18
£1,000 fine for allowing staff below the age of 18 to sell alcohol

FIREWORKS & SPARKLERS

£5,000 and/or 6 months prison

18 and R18 MOVIES & GAMES

£5,000 and/or 6 months prison

KNIVES

£5,000 and/or 6 months prison

**+ ECIGS & VAPE
PRODUCTS**

16

NATIONAL LOTTERY & SCRATCHCARDS

£5,000 and/or 6 months prison; Following a safe Involving Trading Standards testing you may lose your terminal and on a 3rd offence of Camelot's test purchasing they will remove your terminal.

PARTY POPPERS, CAPS, CRACKER SNAPS

£5,000 and/or 6 months prison

15

15 MOVIES & GAMES

£5,000 and/or 6 months prison

12

12 MOVIES & GAMES

£5,000 and/or 6 months prison

www.noidnosale.com

REFUSALS REGISTER

Date	Product	Time	Name of Person or Description	Observations	Staff Member
17/23	Lost Mary	12:35	young boy	NO ID	Jowah
19/23	Tobacco	1:13	young girl	NO ID	Jowah
21/23	Alcohol	3:37	young boy	NO ID	Jowah
23/23	Elf bar	8:18	young girl	NO ID	Jowah
23-07	Tobacco	9-20	young Bo	NO ID	Nur Ba

MANAGER'S SIGNATURE

DATE:

REFUSALS REGISTER

Date	Product	Time	Name of Person or Description	Observations	Staff Member
13/12	Elfbar	21:10	Young man	No ID	Kazim
17/12	Alcohol	18:30	Young man	No ID	Nuri
20/12	Elfbar	15:32	School	No ID	Nuri
16/03/23	Smoker		Los w.m.p.	uncasing	
19/03/23	Los men	4-55	2 Girls	NO ID	Warr
20	Sinces	13-45	young man		Warr
22	ELF BAR	16-25	2 GIRLE	NO ID	KAZIM
17/23	ARIKEL	15-20	1 BOYS	NO ID	KAZIM
16/Jun/23	ELFbar	12:19	1boy	No ID	KAZIM

REFUSALS REGISTER

Date	Product	Time	Name of Person or Description	Observations	Staff Member
10/09/	Cigarettes	21:30	Young with cap	ask for I-D No ID No Sale	Muri
14/09	ALF BAR	16:15	Two young School Girls	No ID NO SALE	Ali
16/09	Vodka	12:05	Young Boy	No ID	Ali
5/10/	FLF BAR	16:20	Young girl	No ID	Muri
			Paul A Muri	10/11/22	
09/11	Rum	14:38	Young boy	No ID	Nuri
12/11	Elf bar	17:49	Young boy	No ID	Nuri
13/11	Alcohol	19:40	Young girl	No ID	Kazim
16/11	Tabac	18:20	Young Boy	No ID	Muri

MANAGER'S SIGNATURE _____

DATE: _____



REFUSALS REGISTER

Date	Product	Time	Name of Person or Description	Observations	Staff Member
10/09/	Cigarettes	21:30	Young with cap	ask for I-D No ID No Sale	Muri
14/09	ALF BAR	16:15	Two young School Girls	No ID NO SALE	Ali
16/09	Vodka	12:05	Young Boy	No ID	Ali
5/10/	FLF BAR	16:20	Young girl	No ID	Muri
			Paul A Muri	10/11/22	
09/11	Rum	14:38	Young boy	No ID	Nuri
12/11	Elfbars	17:49	Young boy	No ID	Nuri
13/11	Alcohol	19:40	Young girl	No ID	Kazim
16/11	Tabac	18:20	Young Boy	No ID	Muri

MANAGER'S SIGNATURE _____

DATE: _____



REFUSALS RE

Date	Product	Time	Name of Person or Description	Observations	Staff Member
08-23-15	TABACO	16-23			KAZIM
08-23-16	TABACO	17-44	Girls.	NO ID	KAZIM
08-23-18	ALCOL-	18-16	Boy.	NO ID	KAZIM
08-23-18	TABACO.	21-33	Boy	NO ID	KAZIM
08-23-20	ALCOLL	20-26	Girls	NO ID	KAZIM
08-23-20	ALCOL	19-43	Boy	NO ID	KAZIM
08-23-21	TABACO	21-53	Boy	NO ID	KAZIM
08-23-22	TABACO	16-17	Boy	NO ID	KAZIM
08-23-22	TABOCO	14-11	Girls.	NO ID	KAZIM
08-23-23	ALCOL	19-24	Boy.	NO ID	KAZIM

MANAGER'S SIGNATURE _____

DATE: _____



Date	Product	Time	Name of Person or Description	Observations	Staff Member
07-2023 30	TABACO.	21.09.	Girls-	PO. ID-	KAZIM
08-23 01.	ALCOL.	16.29.	Boy.	NO. ID.	KAZIM
08-23 04.	TABACO	1.921	Boy.	NO. ID.	KAZIM
08-23 06.	ALCOL.	21.77.	Boy.	NO. ID	KAZIM
08-23 06	TABACO	1623	Boy.	NO ID	KAZIM
08-23 10	ALCOL-	1836	Girls-	NO. ID.	KAZIM-
08-23. 11	TABAC	19.13	Girls.	PO ID	KAZIM
08-23. 12.	TABACO	17.26	Boy.	NO-ID	KAZIM
08-23 14.	ALCOL	2014	Girls	NO-ID	KAZIM

AMON



Sundries

UNDER 25?

Please be prepared to show proof of age when buying age restricted products


drinkaware.co.uk





CAN'T FIND WHAT YOU





**CAN'T FIND
WHAT YOU'RE
LOOKING FOR?**

**IF YOU WISH TO PURCHASE
TOBACCO PRODUCTS PLEASE
ASK OUR STAFF**

- **CIGARETTES**
- **TOBACCO**
- **CIGARS**



**CLERK 1
Cash**

£11.99

**GROCERIES
FOOD
WINE
SPIRITS
BEERS
TOBACCO**

DIAMOND FOOD & WINE

Part 2

BIRMINGHAM CITY COUNCIL

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Mr Nuri Bay 1001 Tyburn Road	
Post town: Birmingham	Post Code: B24 0TJ
Telephone Number: 07502624377	
Email baynuri77@hotmail.com	
Registered number of holder for example company number or charity number (where applicable) N/A	
Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Mr Nuri Bay 1001 Tyburn Road	
Post town: Birmingham	Post Code: B24 0TJ
Telephone Number: 07502624377	
Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol	
Licence Number 12134	Issuing Authority BIRMINGHAM CITY COUNCIL

Dated 11/07/2022

S.A. Jaffer

SHAH YASSER
Senior Licensing Officer
For Director of Regulation and Enforcement

Page 2 of 6
Birmingham City Council, Licensing Section, P.O. Box 17831, Birmingham, B2 2HU

BIRMINGHAM CITY COUNCIL



LICENSING ACT 2003
PREMISES LICENCE

Premises Licence Number: 14073 / 6

Part 1 - Premises details:

Postal address of premises, or if none, Ordnance Survey map reference or description
1001-1003 Tyburn Road
Erdington

Post town: Birmingham	Post Code: B24 0TJ
Telephone Number: Not Specified	

Where the licence is time limited the dates
N/A

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

The times the licence authorises the carrying out of licensable activities
Monday - Sunday 06:00 - 03:00 M2

The opening hours of the premises
Monday - Sunday 06:00 - 03:00

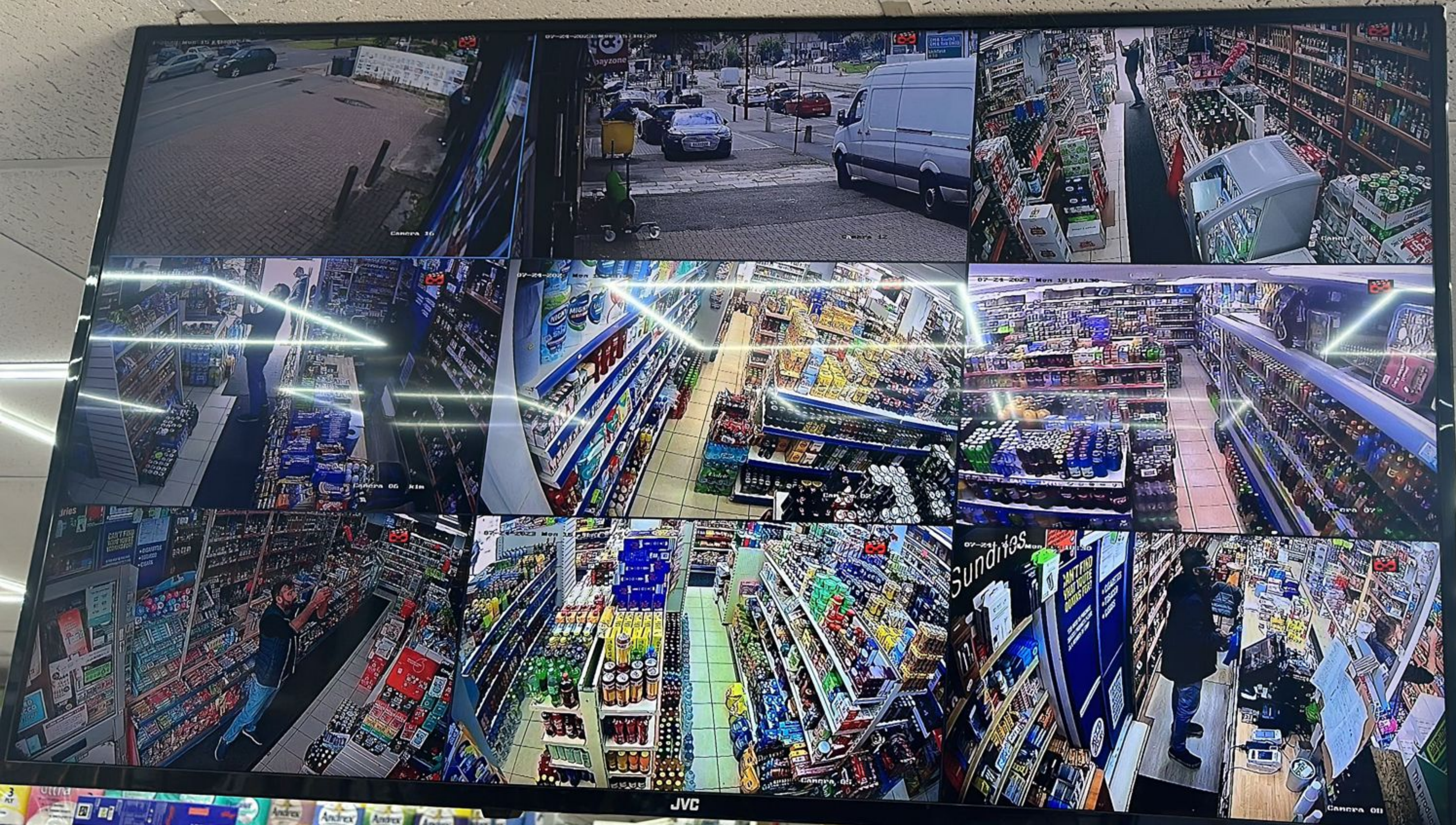
Where the licence authorises supplies of alcohol whether these are on and/or off supplies
Off Supplies

Page 1 of 6
Birmingham City Council, Licensing Section, P.O. Box 17831, Birmingham, B2 2HU

- CIGARETTES
- TOBACCO
- CIGARS







Proposed Conditions

1. No alcoholic goods will ever be purchased or taken from persons calling to the shop.
2. No spirits shall be purchased in a resealed box.
3. The licensee will immediately report to Trading Standards and the Police any instance of a caller to the shop attempting to sell alcohol.
4. Invoices (or copies) for all alcoholic goods on the premises will be kept at the shop and made available to officers from the council, police or HMRC upon request.
5. A stock control system will be introduced, so that the licensee can quickly identify where and when alcoholic goods have been purchased.
6. An ultra-violet light will be available at the premises for the purpose of checking the UK Duty Stamp on spirits as soon as practical after they have been purchased.
7. If any spirits bought by the business have UK Duty Stamps that do not fluoresce under ultra-violet light, or are otherwise suspicious, the licensee shall identify the supplier to Islington Trading Standards and HMRC as soon as possible.
8. All staff who work front of house will be trained for their role on induction and be given refresher training every six months. Written training records will be kept for each staff member and be produced to police & authorised council officers on request. Training will include identifying persons Under 25, making a challenge, acceptable proof of age & checking it, making & recording a refusal, avoiding conflict & responsible alcohol retailing.
9. The premises licence holder to employ an external agency to conduct training for all new staff and refresher training every 6 months with training records sent by email to Local Authority's Trading standards and Local Authority's Licensing Team.
10. The premises licence holder to employ an external agency to conduct test purchases at the premises every 6 months with results of test purchases to be sent to Local Authority's Trading Standards and Local Authority's Licensing team upon completion.
11. An EPOS system with automatic age-verification features will be installed by the end of September 2023.