

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee A
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Thursday 19th July 2018
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	Arabian Nites, Part of 52-68 Bissell Street, Digbeth, Birmingham, B5 7HP
Ward affected:	Bordesley & Highgate
Contact Officer:	David Kennedy, Principal Licensing Officer, 0121 303 9896, licensing@birmingham.gov.uk

1. Purpose of report:

As a result of a closure order being issued by the Magistrates Court under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 the Licensing Authority is required to review the premises licence in accordance with section 167 (1) & (2) of the Licensing Act 2003.

2. Recommendation:

To consider this review and to determine this matter.

3. Brief Summary of Report:

As a result of the Licensing Authority receiving notification that the Magistrates Court has issued a closure order in respect of Arabian Nites, Part of 52-68 Bissell Street, Digbeth, Birmingham, B5 7HP the authority is required to review the premises licence.

A representation has been received from West Midlands Police, as a responsible authority.

4. Compliance Issues:

4.1 Consistency with relevant Council Policies, Plans or Strategies:

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

5. Relevant background/chronology of key events:

On the 5th July 2018 Birmingham Magistrates Court notified the Licensing Authority that they had issued a closure order in respect of Arabian Nites, Part of 52-68 Bissell Street, Digbeth, Birmingham, B5 7HP in accordance with section 80 of the Anti-social Behaviour, Crime and Policing Act 2014.

As a result of receiving notification of the closure order the Licensing Authority is required to review the premises licence granted to QR Holdings Limited in respect of the aforementioned venue.

A copy of the closure order issued by the Magistrates Court is attached as Appendix 1.

The review application was advertised, by the Licensing Authority in accordance with the regulations; the closing date for responsible authorities and other parties ended on 12th July 2018.

A representation has been received from West Midlands Police, as a responsible authority. See Appendix 2.

The Premises Licence is attached at Appendix 3.

Site location plans are attached at Appendix 4.

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

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

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

6. List of background documents:

Copy of the closure order issued by the Magistrates Court, Appendix 1

Copy of the representation as detailed in Appendix 2

Copy of Premises Licence, Appendix 3

Site location plans, Appendix 4

7. Options available

Take no action

Modify the conditions of Licence

Exclude a Licensable activity from the scope of the Licence

Suspend the Licence for a period not exceeding 3 months

Revoke the Licence

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

Appendix 1



Birmingham Magistrates' Court
Code 2922
Birmingham Magistrates Court
Victoria Law Courts, Corporation Street, Birmingham, B4 6QA

Closure order

Premises:

Arabian Nites
54-68 Bissell Street (Ground Floor & Basement)
Digbeth
Birmingham
B5 7HP

Case number: **201800352670**

Respondents: Arabian NITES

The court has considered a closure order made on 3 July 2018 on the ground that the premises have been used in connection with the unlawful use, production or supply of a Class A drug and the use of the premises has been associated with the occurrence of disorder or serious nuisance to members of the public.

Order

The premises are to be **closed immediately** to all persons and **remain closed** for **3 months** from the date of this order.

Warning

A person who, remains on or enters the premises in contravention of this order is liable to a fine or imprisonment or both.

Michael Seath

Date: 3 July 2018

Justices' Clerk

Offences

201800352670/1

Application for a closure order following service of a notice on 22/06/2018 in respect of Arabian Nites. 54 - 76 Bissell Street, Highgate, Birmingham, B7 7HP.

Pursuant to section 80 of the Anti-social Behaviour, Crime and Policing Act 2014.

Arabian NITES

4 July 2018/CLO_24_0/314115/1

Appendix 2

From: Abdool Rohomon
Sent: 12 July 2018 09:06
To: Licensing
Subject: Arabian Nites

Dear Licensing

West Midlands Police have obtained an ASB closure notice for 3 months against Arabian Nites. The background to this closure was the discharge of a firearm from within the licensed area of Arabian Nites. The firearm discharge, ricocheted and then hit an innocent member of the public who was at an event in the premises, fortunately this caused only slight injuries. A bullet fragment was found on the stairwell within the licensed premises. There was an event in the basement section of the premises which is shown on the plan as the bowling alley, although through the course of the investigation it would appear changes have been made to the layout of the premises which are not reflected in the licensed plan for the premises.

At the initial ASB application the premises maintained they were not open, and showed CCTV via a mobile phone of the front to confirm they were not open. Also during the court hearing a person purporting to be the IP tried to obtain access to the court, he was prevented and so handed in a note saying that he was the injured party and wanted to retract his statement. Officers have since investigated this and it appears that the person attending court was not the injured person, as he was of a different ethnic group. This was viewed with suspicion by West Midlands Police as an attempt to distance themselves from the incident which they denied had taken place.

After collating further evidence West Midlands Police reapplied for the ASB closure notice, providing evidence that the firearm discharge-

- Did take place
- A person was injured
- It was within the licensed area of the premises of Arabian Nites
- That the IP had not attended court or retracted his statement
- Officers were prevented access to Arabian Nites for a period of time
- Access could have been granted through the landlords office but this was not offered or discovered until officers had forced entry into the building

Through the second application Birmingham Magistrates court issued the 3 month closure against Arabian Nites and indicated that all areas on the licensed plan were now closed.

West Midlands Police are seriously concerned that crime and disorder, and public safety objectives within the Licensing Act are being compromised by Arabian Nites. During the investigation officers were able to access partial CCTV (that was not password protected) which showed the discharge of the firearm and the injured persons. When officers went back to the premises several days later with a warrant to seize the remaining cctv, they were delayed in getting in, and then discovered that the cctv had been removed, in what officers described as a hurry, preventing officers from obtaining the evidence needed.

At the court hearing the premises introduced the CCTV engineer who confirmed he had taken the CCTV at the request of the premises, however he had not been told to download any footage (contrary to what the premises management had told officers when they executed the warrant), and that the hard drives were actually delivered back to the premises 20 minutes after the Police had left the premises and yet the premises did not inform the Police, or had done anything with the hard drives.

During the court proceedings the premises introduced CCTV footage which they claimed was Tenesha Stewart, opening the fire doors from Arthouse and using the car park, and that is how they had gained to Arabian Nites. If this is true and this was not established as fact, there is serious concern that the premise licence holders are either

allowing people to use their licence and then denying involvement or have no control on who uses their premise licence and so there is no effective control on these premises.

At the time of the incident Arthouse had had its premise licence suspended and so should not have been operating.

West Midlands Police will be attending the licensing hearing on the 19th July and will be represented by the same counsel that we used during the court proceedings – Mr James Rankin

Abs Rohomon

**PC 4075 Rohomon
BW Licensing
Police headquarters
Lloyd House
Colmore Circus
Birmingham
B4 6NQ**

Appendix 3

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LICENSING ACT 2003

PREMISES LICENCE

Premises Licence Number:

4253 / 2

Part 1 - Premises details:

Postal address of premises, or if none, ordnance survey map reference or description Arabian Nites Part of 52-68 Bissell Street Digbeth	
Post town: Birmingham	Post Code: B5 7HP
Telephone Number: Not Specified	

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

A	Plays
B	Films
C	Indoor sporting events
E	Live music
F	Recorded music
G	Performances of dance
H	Anything of similar description to that falling within (live music), (recorded music) or (performances of dance)
L	Late night refreshment
M3	Sale of alcohol by retail (both on & off the premises)

The times the licence authorises the carrying out of licensable activities

Monday - Sunday	08:00 - 04:00	A , B , C , E , F , G , H , M3
	23:00 - 04:00	L

The opening hours of the premises

Monday - Sunday	08:00 - 04:30
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Where the licence authorises supplies of alcohol whether these are on and/or off supplies

On and Off Supplies

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Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence QR Holdings Ltd	
Post town:	Post Code:
Telephone Number: Not Specified	
Email N/A	

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

Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol	
Post town:	Post Code:
Telephone Number: N/A	

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

Dated 18/07/2016

S.A. Yasser.

SHAID YASSER
Senior Licensing Officer
For Director of Regulation and Enforcement

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Annex 1 – Mandatory Conditions

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

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

The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises— (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to— (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or (ii) drink as much alcohol as possible (whether within a time limit or otherwise); (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective; (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective; (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner; (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

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

The responsible person must ensure that— (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures— (i) beer or cider: ½ pint; (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and (iii) still wine in a glass: 125 ml; (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available."

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price. (2) In this condition:— (a) "permitted price" is the price found by applying the formula $P = D + (D \times V)$, where— (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol; (b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence— (i) the holder of the premises licence, (ii) the designated premises supervisor (if any) in respect of such a licence, or (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence; (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994. (3) Where

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the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny. (4) Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

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

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

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Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

Regulated Entertainment shall take place indoors only.

The Premises Licence Holder shall ensure that if any adult entertainment is introduced to the premises, then it will only be done after giving at least 14 days notice to the Police Authority.

The security levels at any event will be dependent on the risk assessment and such number as is agreed shall become a condition of the Premises Licence.

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

The premises must operate an incident book and record all incidents that occur inside and immediately outside the premises. Incident book can be inspected at any time upon request. The incident book to be available for inspection by any regulatory body.

All training records for all the staff, in regard to drunkenness and the protection from harm for children to be maintained, and to be available upon request from any regulatory body.

Premises to operate a drugs policy and lost / found property policy. Copies of both to be supplied to the Licensing Department. Steelhouse Lane Police Station.

Venue to ensure the entrance area together with the queuing area to be well illuminated by secure lighting to a high standard and maintained.

The premises is to maintain staff profiles for all door staff working at the premises, and for any door staff that have worked on the premises in the last three months. The door staff profile will consist of identification for the member of staff.

A copy of his / her SIA Badge.
Passport or driving licence.

If the proof of identification is anything other than the photo driving licence, then the member of staff will need proof of address, which must be a utility bill and to be dated within the last six months

Door supervisors stationed outside the frontage of the premises will wear high visibility jackets /coats and will have their SIA badge held in a clear arm sleeve holder. Door supervisors inside the premises will wear hi visibility waist coats, again with the SIA badge positioned in a clear arm sleeve holder in visible view to the public.

The CCTV system is to be installed at the premises to the specification agreed with the licensing Department at Steelhouse Lane Police Station. CCTV is to be operational whilst the premises are open and be recording continually. If a hard drive system is used the recordings are to be kept for a minimum of 31 days. CCTV images to be made available to any responsible authority immediately on request.

Premises must supply a full month's list of events in writing to the Licensing Department at Steelhouse Lane Police Station, month in advance.

If the premises use a new promoter for any event, then for the first event the management for the premises will arrange to meet at Steelhouse Lane Police Station. Licensing Department at least 28 days before the first event, with the risk assessments for the event. The premises will not hold any new events without the prior agreement of the Licensing Department at Steelhouse Lane Police Station. Recommendations made to the management that satisfy the four licensing objectives will become conditions for that event on the premises licence.

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Premises to supply a risk assessment for all events held at the premises. A required 28 days notice unless otherwise agreed with the West Midlands Police Licensing Department at Steelhouse Lane Police Station. Included in the risk assessment is a search policy which will reflect the event risk and security deployment plan.

The Premises Licence Holder shall ensure that a fixed camera will be placed on the outside of the premises at the entrance with the ability to monitor any queue and the Door staff to augment the fixed camera and monitor any queue.

The Premises Licence Holder will make adequate provisions for monitoring and controlling the number of persons entering the licensed premises and any temporary structures within it. The Licence Holder will make all necessary arrangements by way of fencing, gate systems, security and other provisions to prevent unauthorised access to the licensed premises.

The Premises Licence Holder will ensure that individuals who are drunk, disorderly or both will not be permitted access to 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

The Premises Licence Holder shall ensure the conduct of patrons leaving premises will be supervised and monitored to minimise potential nuisance. Similarly, conduct of the general public in the vicinity will be monitored and the Police advised of inappropriate behaviour/unlawful activity.

The Premises Licence Holder shall not permit noise emanating from the licensed premises to unreasonably disturb persons in the neighbourhood and in any case, will ensure that the noise levels from the event during the times authorised by this licence shall not exceed levels set at neighbouring occupied residential properties that will be agreed with Responsible Authorities.

The Premises Licence holder shall ensure that whenever regulated entertainment takes place within the licensed premises, such entertainment will not be such as to be a statutory nuisance in the nearest noise sensitive or residential premises.

Noise propagation tests will be undertaken, during which the sound systems will be configured and operated in a similar manner as intended for the relevant Event. The sound sources used for the test shall be similar in character to the music likely to be produced during the relevant Event. Appropriate control limits at each sound mixer position and adjustments to sound amplification equipment will be agreed as a result of the testing to the satisfaction of the appropriate Responsible Authority.

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

The premises shall adopt the Challenge 25 Scheme and appropriate signage will be placed at the entrance to the premises and adjacent to any bar server. The premises will operate a policy whereby any person attempting to buy alcohol or any person attempting to gain entry to the premises who appears to be under 25 will be asked for photographic ID to prove their age. The only ID that will be accepted is a passport, driving licence with a photograph or an accredited proof of age card bearing the PASS mark hologram.

If the premises wish to conduct an underage event (that is involving anyone under the age of 18 years on the premises) the premise must inform the Licensing Department at Steelhouse Lane Police Station a minimum of 28 days in advance. The management must contact Steelhouse Lane and arrange for a meeting with the promoter and the management to discuss the risk assessment. Any such event will be treated as high risk. West Midlands Police will have a power of veto over any such event.

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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

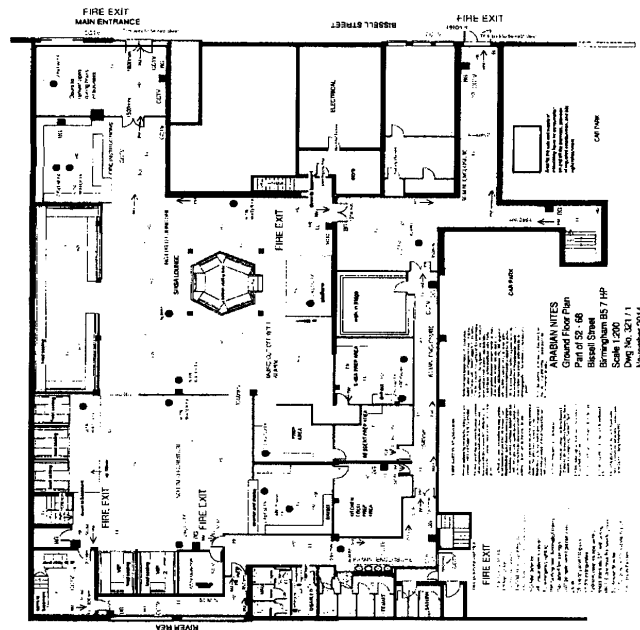
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3e) Committee conditions to promote the protection of children from harm

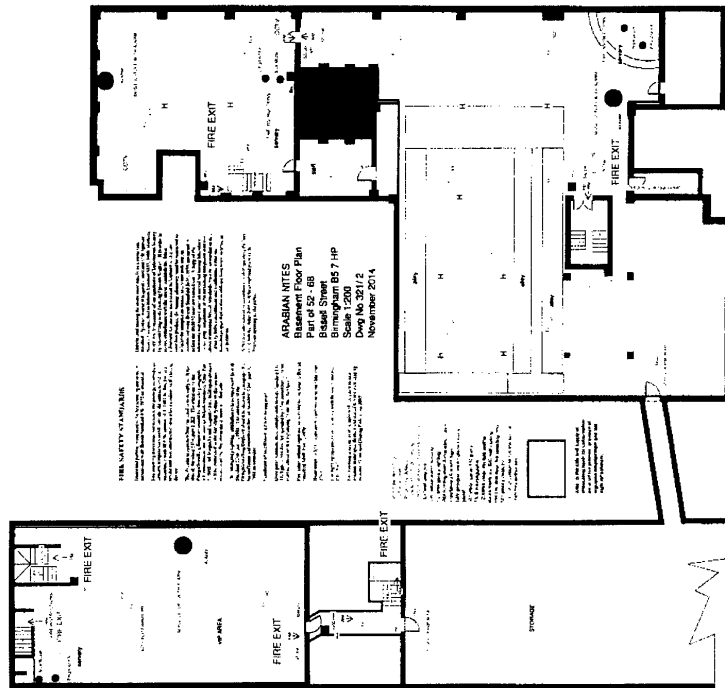
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Annex 4 – Plans

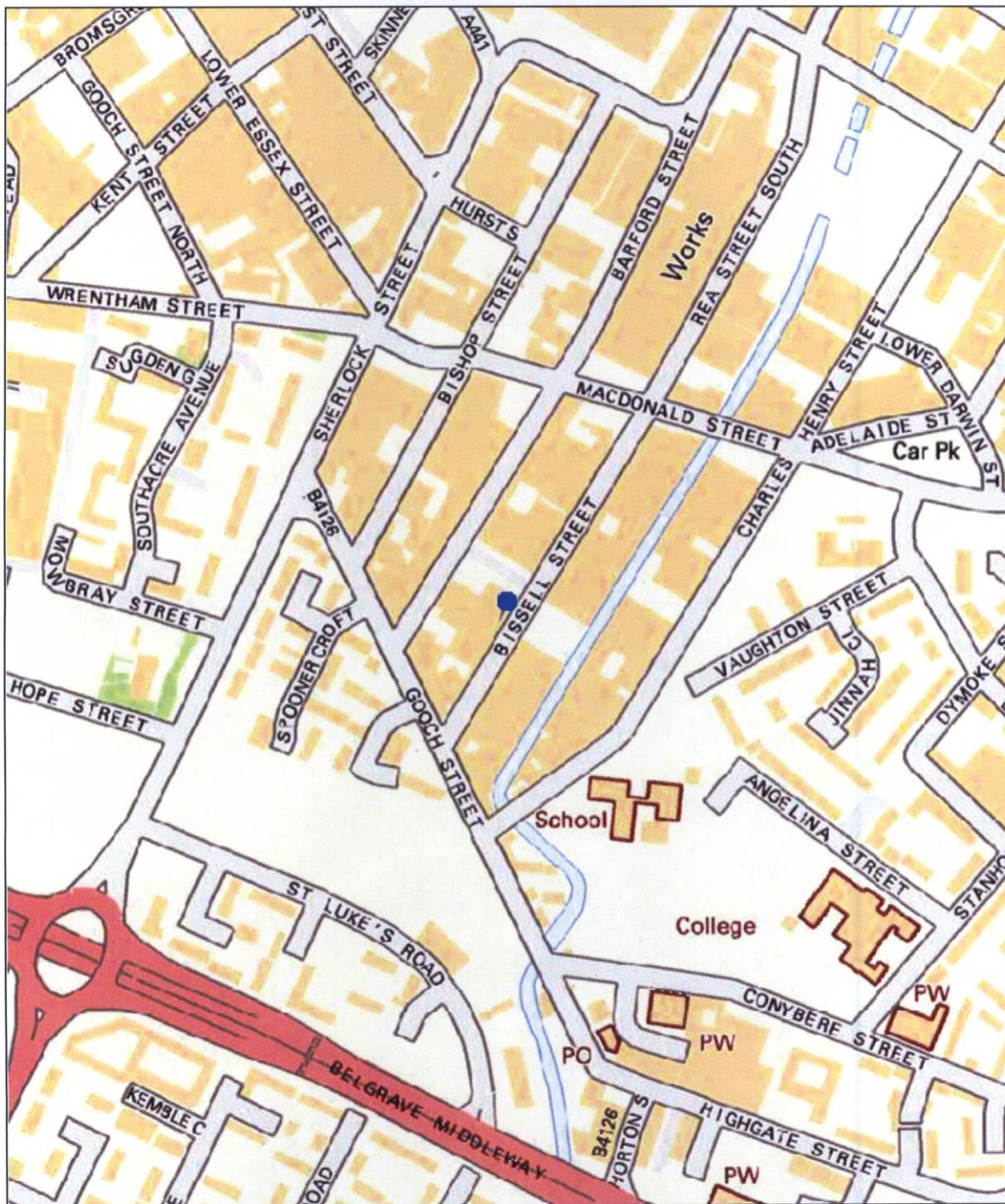


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Birmingham City Council, Licensing Section, P.O. Box 17013, Birmingham, B6 9ES

Appendix 4



Birmingham City Council Map Created By:

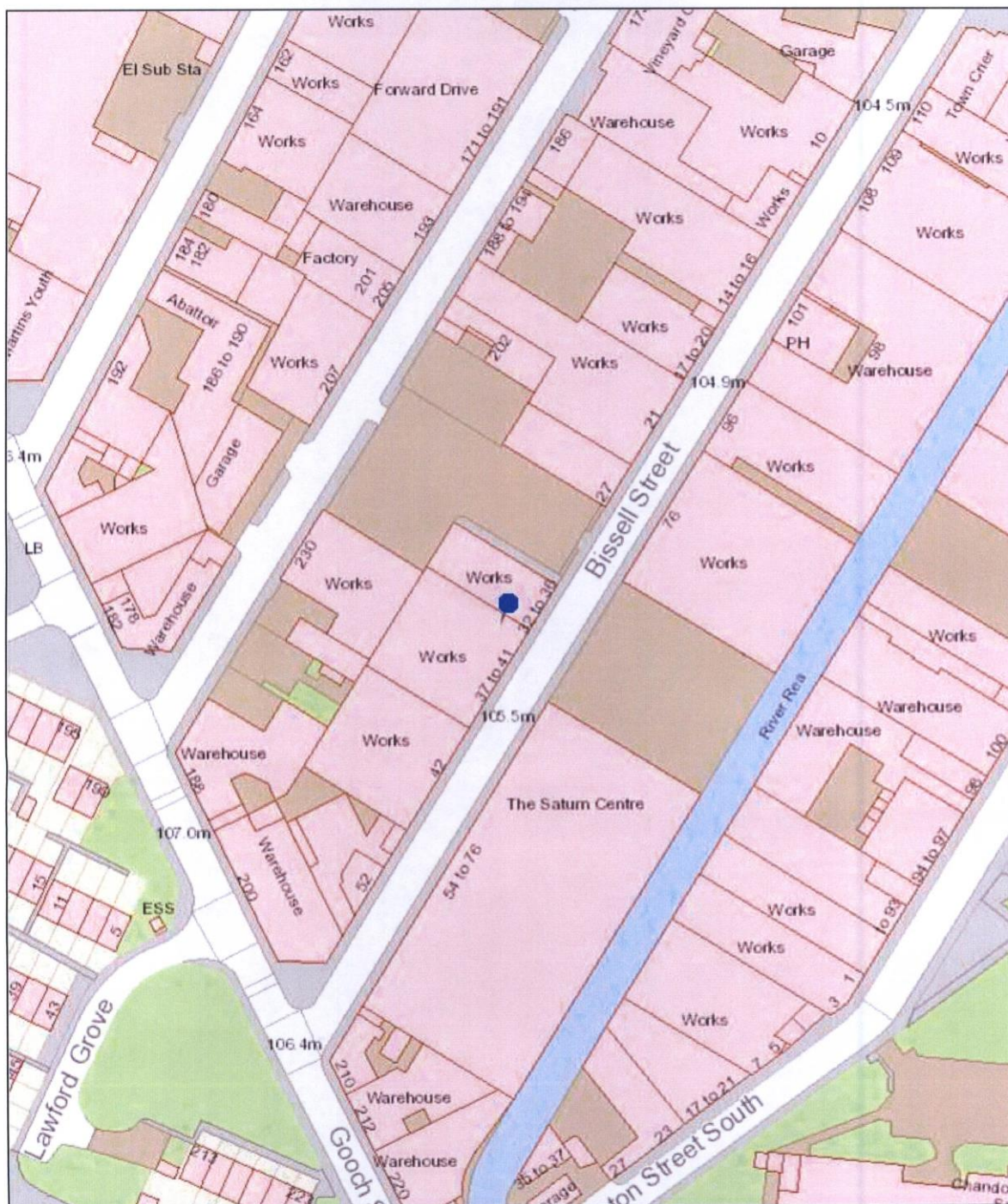
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Notes



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