

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

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C

WEDNESDAY, 29 JUNE 2016 AT 10:00 HOURS
IN COMMITTEE ROOM 1, COUNCIL HOUSE, VICTORIA SQUARE,
BIRMINGHAM, B1 1BB

A G E N D A

1 **NOTICE OF RECORDING**

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

2 **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

3 - 28

3 **LICENSING ACT 2003 PREMISES LICENCE – REVIEW WEOLEY LOCAL, 159 – 161 SOMERFORD ROAD, WEOLEY CASTLE, BIRMINGHAM, B29 5LB**

Report of the Acting Director of Regulation and Enforcement.
N.B. Application scheduled to be heard at 10:00am on Wednesday 29 June 2016

4 **OTHER URGENT BUSINESS**

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

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Wednesday 29th June 2016
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	Weoley Local, 159 – 161 Somerford Road, Weoley Castle, Birmingham, B29 5LB
Ward affected:	Weoley
Contact Officer:	David Kennedy, Principal Licensing Officer, 0121 303 9896, licensing@birmingham.gov.uk

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

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

3. Brief Summary of Report:
Review application received on 12 th May 2016 from the Chief Inspector of Weights and Measures in respect of Weoley Local, 159 – 161 Somerford Road, Weoley Castle, Birmingham, B29 5LB.
A representation has been received from 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:

<p>The Chief Officer of Weights and Measures applied on 12th May 2016 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for Weoley Local, 159 – 161 Somerford Road, Weoley Castle, Birmingham, B29 5LB.</p> <p>A representation has been received from Birmingham City Council Licensing Enforcement, as a responsible authority. See Appendix 1.</p> <p>Review application is attached, see Appendix 2.</p> <p>The Premises Licence is attached at Appendix 3.</p> <p>Site location plans are attached at Appendix 4.</p> <p>When carrying out its licensing functions, a licensing authority must have regard to Birmingham City Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under s182 of the Licensing Act 2003.</p> <p>The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -</p> <ul style="list-style-type: none">a. The prevention of crime and disorder;b. Public safety;c. The prevention of public nuisance; andd. The protection of children from harm.
--

6. List of background documents:

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

7. Options available

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

Appendix 1

Birmingham City Council Licensing Service

Representation as a responsible authority in respect of the premises licence number 3016/3 granted under the Licensing Act 2003 in respect of premises known as:

- Weoley Local, 159-161 Somerford Road, Weoley Castle, Birmingham, B29 5LB

Introduction

The current premises licence holder - Mr Shamas Mahmud

The transfer of Premises licence number 3016/3 (licence documents not yet issued) was deemed granted on 16th April 2016 and authorises the following licensable activities:-

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

And permits this licensable activity to take place:-

Monday – Sunday 08:00 - 20:00 hours

Conditions applied to the premises licence

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

2a) The DPS will train staff at the premises on the basic laws of selling alcohol and the conditions on the premises licence.

2d) The manager will actively discourage any youths from congregating outside the premises.

2e) A sign stating that no sales of alcohol to under 18 year olds will be displayed at the premises.

All alcohol sale refusals will be noted in a refusal book.

Conditions attached after hearing by Licensing Authority

3a) General committee conditions

Prior to any future application made for the variation of the Designated Premises Supervisor with the exception Mr Amar Tiwana, the Premises Licence Holder must consult Birmingham South (Licensing Department) about the new applicant for approval

CCTV to be fitted to the specifications and recommendations of West Midlands Police (Birmingham South Licensing Department). Images to be held for a minimum of 28 days, and made available and downloadable immediately on request by any Responsible Authority.

To be working and recording at all times the premises is open for licensable activities.

A challenge 25 policy to be implemented at the premises.

Background Information

On the 10th November 2015 officers from the Trading Standards, Environmental Health and Licensing Enforcement Teams carried out a joint inspection at Weoley Local, 159-161 Somerford Road, Weoley Castle, Birmingham, B29 5LB. All dealing conducted during the inspection where with Mr Lamber Singh Tawana.

Matter identified by the Licensing Enforcement Officer:-

- No evidence could be produce showing the DPS or premises licence holder had provided training to all staff regarding the basic laws of selling alcohol and the conditions on the premises licence;
- No notices on display stating no sales of alcohol to under 18's;
- Concerns that the refusal register was not being completed regarding all alcohol refusal sales as significant gaps in entries recorded.
- CCTV images not held for required 28 days and images could not be downloaded on request as required;
- No evidence could be produced that the premises licence holder had implemented a challenge 25 policy.

Matter identified by Trading Standards Officers:-

- A significant quantity of illicit cigarettes and alcohol was found at the premises. Some of this alcohol was on display and being exposed for sale and the remainder was found in a storage area at rear of premises.

On the 3rd February 2016 Trading Standards Officers carried out a subsequent inspection at the premises and identified a further quantity of illicit alcohol at the premises.

On the 5th April 2016 the Licensing Section received an application to transfer the premises licence to Mr Shamas Mahmud and to nominate himself as the Designated Premises Supervisor (DPS). Mr Mahmud is now the holder of the current premises licence and the nominated DPS.

On the 13th May 2016 a Licensing Enforcement Officers assigned the task of posting the public notices in relation to the review application visited the premises and spoke to Mr Lamber Singh Tawana who was standing behind the counter.

On the 19th May 2016 this Licensing Enforcement Officer visited the premises again in connection with the displaying of the public notices. Mr Lamber Singh Tawana was again present and standing behind the counter.

Licensing Act 2003 - Section 136 Un-authorised licensable activities

(1) A person commits an offence if—

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

Licensing Act 2003 - Section 144 Keeping of smuggled goods

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

2) This subsection applies—

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

Guidance issued under section 182 of the Licensing Act 2003

Reviews arising in connection with crime states:-

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

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

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

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

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

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

Licensing Enforcement Team Recommendations to the Licensing Committee

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

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

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

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

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

There has clearly been illegal activities at this premises which seriously undermines the licensing objectives relating to the:-

- Prevention of Crime and Disorder
- Public Safety;
- Protection of Children from Harm

The Licensing Enforcement Team considers that Mr Lambar Singh Tawana continuing presence at the premises gives serious rise for concern, given the extent of his involvement in the purchase and sale of illicit alcohol and tobacco.

The Licensing Enforcement Team would therefore recommend the Licensing Committee request that Mr Mahmud provides documented proof

- That he has purchased the business trading at 159-161 Somerford Road;
- That he has the right to occupy the premises, and
- That he is liable for all relevant charges in respect of the premises.

If the Licensing Committee cannot be satisfied that Mr Mahmud is the genuine owner of the business the Licensing Enforcement Team would recommend the Licensing Committee consider the revocation of the premises licence.

If the Licensing Committee can be satisfied that Mr Mahmud is the genuine owner of the business the Licensing Enforcement Team would recommend that additional conditions be attached to the premises licence granted to Mr Mahmood to effectively promote the licensing objectives.

Appendix 2

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

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I **Martin Williams (on behalf of Donna Bensley Chief Inspector of Weights & Measures)**

(Insert name of applicant)

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

Part 1 – Premises or club premises details; **WEOLEY LOCAL**

Postal address of premises or, if none, ordnance survey map reference or description 159-161 Somerford Road, Weoley Castle, Birmingham, B29 5LB	
Post town BIRMINGHAM	Post code (if known) B29 5LB

BCC REGULATION & ENFORCEMENT LICENSING SECTION DATE RECEIVED
REF NO
INITIALS

Name of premises licence holder or club holding club premises certificate (if known) Mr Shamas Mahmud
Number of premises licence or club premises certificate (if known) 3016

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

☐

gg/tss/1689/mw/ij

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

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

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

gg/tss/1689/mw/jj

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

On the 10th November 2015 a team of Birmingham Trading Standards Officers and Police Officers, were visiting premises in the Northfield / Weoley Castle area to inspect for illicit alcohol and tobacco products as part of a national intelligence led operation.

One of the premises visited was Weoley Local, 159-161 Somerford Road, Weoley Castle, Birmingham, B29 5LB. At that time the Premises Licence Holder Mr Amar TIWANA and Designated Premises Supervisor Mr Sukhjinder BILLA, were not present. In charge of the premises was Mr Lamber Singh TAWANA. The submitting officer, Martin Williams, recognised Mr TAWANA from previous visits.

During the inspection, when officers entered three males were present behind the counter. One of the males started speaking in a language other than English, Officer Mohammed Tariq recognised the language hearing one of the men say, 'hide them' in Pakistani. Officer Tariq went behind the counter and found two sleeves of Mayfair and one of L&M cigarettes under the counter. These cigarettes were suspected of being illegal. One of the males immediately left the premises shortly after the officers arrived.

During the inspection various brands of alcohol were identified as having suspected counterfeit back labels. These were identified behind the counter exposed for sale to the general public and also hidden in three separate discreet locations on the premises. A large amount of Smirnoff vodka was found in the kitchen cupboards under the sink, cases of Glen's vodka were found behind shelving next to the back storage room. There were also cases of Glen's vodka and Krakus vodka found in a storage room by the electricity meter near the front of the premise. Smaller amounts of these brands of alcohol were also found behind the counter, together with some suspect Jack Daniels whisky. It was noted that there was a large storage room at the back but a lot of this shelving was not being used (i.e. the illicit product found was hidden from sight).

In total officers seized: 110 x 1 litre and 20 x 70cl Glen's vodka; 54 x 70cl Smirnoff vodka; 15 x 70cl Jack Daniels; all with suspected counterfeit back labels. 48 x 70cl Krakus vodka with suspect duty stamps and the Mayfair and L&M cigarettes which appeared to be counterfeit.

Mr TAWANA was asked a few questions which were recorded in Officer Nicola Preston's notebook. One of these questions related to the third male who left the premises. Mr TAWANA denied there ever being a third male behind the counter.

During the visit a Licensing Enforcement officer was also present, and issued a Traders notice to warn about their CCTV not operating correctly (despite this being a condition of the licence) and not storing data on the hard drive for 28 days.

Officers seized the CCTV, to catch the recordings of the visit, and to establish three males present behind the counter which was later confirmed.

Subsequent to the visit the Smirnoff, Glens and Jack Daniels have all been confirmed to have counterfeit back labels incorporating fake UK duty stamps. The Mayfair and L&M cigarettes have been confirmed as totally counterfeit. The Krakus vodka was confirmed by HMRC to have had its duty paid; consequently the Krakus was subsequently returned to the premises.

A follow up visit was carried out on 3 February 2016 following fresh intelligence that illicit alcohol was being sold at the shop. Upon entry officers found Mr TAWANA behind the counter and two other males. The Premises licence holder and DPS Mr Amar TIWANA was again not present during the visit.

An inspection was carried out and further suspect illicit alcohol items were identified behind the counter for sale to the public and in a concealed location where previously the Krakus vodka and Glen's vodka had been found. There were also single bottles lined up on one of the shelves in the

gg/tss/1689/mw/jj

storage room at the back.

In total from off the shelves and the various storage locations officers seized: 43 x 70cl Bells whisky; 23 x 1 litre and 19 x 70cl High Commissioner whisky; 19 x 1 litre and 17 x 70cl Glens vodka; 1 x 1 litre and 6 x 70cl Dannoff. This totals 128 bottles of spirits seized, as they all appeared to have counterfeit back labels.

The Bells and High Commissioner whisky and Glens vodka have since been confirmed to have counterfeit duty paid back labels. The Dannoff vodka appears to have suspect customs stamps.

This licence review is requested on the basis that on two occasions, within a few months of each other, officers have found illicit alcohol and counterfeit cigarettes in the shop. These products were clearly on the premises with a view to supply. On both occasions the Designated Premises Supervisor was not present and neither was an authorised personal licence holder. The premises licence holder has also not been present on any occasion. Mr Lambar Singh TAWANA has been present on both occasions and is clearly in control of the premises. Dealing in such products is contrary to the licensing objectives, specifically to the prevention of crime and disorder, public safety, and the protection of children from harm.

Dealing in illicit goods brings crime into the area and will have been sourced by illegitimate means. Illicit alcohol can be of particular concern as it could have contained harmful ingredients. Not knowing the provenance of goods is a risk to public safety.

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

Following on from the visit on 10th November 2015, Mr TAWANA was invited in for an interview under caution. During that interview he said he was the owner of the business and he runs it. He has two employees called and (he didn't know his surname) Neither of these employees were present at this visit.

Mr TAWANA said he was in day to day control of the shop and does all the buying, fills shelves and serves customers at the till. He admits his son Amarjit TIWANA (also known as Amar and the Premises Licence Holder at the time of the inspections) does not work at the shop, and is rarely there. The same applies to the DPS Billa RAINDER. (AKA Sukhjinder Billa).

Mr TAWANA stated he purchased the alcohol from people coming to the shop and he doesn't get an invoice from them. Mr TAWANA also stated the one male behind the counter was an interested buyer of the shop, despite him serving customers and being sat behind the counter. Mr TAWANA admitted he is responsible for the alcohol but denied responsibility for the cigarettes even though they were behind the counter kept away from the genuine tobacco on the sales counter.

Previous History in Chronological Order

18th October 2011

Trading Standards visited the shop in response to a complaint from a member of the public that alcohol was being sold to underage children. The story was that the trader told the young people to put the drink in a bag until they got home. On this occasion it was noted that the refusals register had not been used for over a year and that staff did not seem to be trained in this area.

28th November 2011

A test purchase was attempted of alcohol by Trading Standards Officers with the assistance of an underage volunteer; on this occasion the shop refused the sale.

31st January 2012

A joint test purchase exercise between Trading Standards and West Midlands Police was carried out with the assistance of an underage volunteer. A bottle of Irish Magners cider was sold by Mr TAWANA to a 16 year old volunteer. The volunteer had tried to buy the cider from another employee but when he was challenged as to his age and lack of I.D and he said he was 16, the man refused him. Then Mr TAWANA had then taken the bottle of cider and wrapped it up into a white bag and sold it to the volunteer himself. This resulted in the issue of a simple caution to Mr TAWANA on the 9th July 2012 agreeing that he committed offences under the Children and Young Persons Act 1933 for supplying a person under the age of 18 with alcohol.

21st April 2012

The Joint Licensing Task Force visited the shop and Trading Standards Officer Martin Williams confiscated 4 packs of Marlborough Gold Cigarettes as they were non-UK duty paid products without the UK legislation health warnings and symbols. Mr TAWANA said he had swapped them with a customer. On this occasion he could not find the refusals register.

28th May 2012

A complaint was made by a member of the public that the shop was selling alcohol and cigarettes to underage children.

29th September 2012

Officers from Trading Standards visited the premises and delivered a 'responsible retailers information pack' which gave information and advice about Age Restricted Sales and illicit tobacco and alcohol products.

gg/tss/1689/mw/fj

9th October 2012

A further complaint was made by a member of the public to Trading Standards alleging that the shop was selling cigarettes to persons under the age of 18. Following this complaint a test purchase with an underage volunteer was undertaken but the sale was refused in accordance with the law.

15th December 2012

A visit was made to the premises by her Majesty's Revenue and Customs (HMRC) who seized a large amount of alcohol, including Glen's vodka and a large amount of wine. This was seized by HMRC as it had been purchased without UK Duty being paid on it. The owner Mr TAWANA stated in interview he purchased the alcohol from the back of a van.

December 2012/January 2013

Over the Christmas period between December 2012 and January 2013 a member of the public complained to Trading Standards about possible counterfeit vodka at Weoley Local.

5th February 2013

Trading Standards Officers went into the shop and inspected the alcohol on display behind the counter.

Trading Standards Officer Martin Williams saw a large amount of 'Igorow' vodka on display which was marked as 2 for £13 which was suspiciously cheap. The DPS at the time Mr TAWANA was not present but his wife was present. 22 bottles of Igorow vodka was seized together with 2 x bottles of Glen's vodka as the back labels appeared to be suspicious.

HMRC confirmed the Igorow vodka to have counterfeit back labels on them with fictitious duty stamp numbers. One of the bottles was submitted to the laboratory and was found to have low alcohol content but no dangerous content found.

Both bottles of Glens were also confirmed to have counterfeit back labels with false UK duty stamps but the product itself was genuine.

16th March 2013

Officer Williams and other members from the Joint Licensing Task Force revisited Weoley Local. This included members from West Midlands Police, West Midlands Fire Service, Environmental Health and Licensing. Mr TAWANA was serving behind the counter; further bottles of Glens and Igorow vodka were seized together with Di Cicco Sambuca for having counterfeit back labels.

West Midlands Police raised the issue about the CCTV which did not appear to be working properly and Mr TAWANA appeared not to know how to use it.

West Midlands Fire Service raised an issue about no fire risk assessment in place for the shop and a ceiling mounted heater behind the counter was a fire hazard. The rear fire exit was blocked in the store room and the premises had no fire extinguishers on the night of the visit.

April 2013 – change of licence

Following on from this seizure a Licence Review was submitted, and during this time in April 2013, Amarjit TIWANA (AKA Amar) applied to take over the licence with immediate effect. This is known to be the son of Lambar Singh TAWANA. This was allowed by the sub-committee on the basis that TIWANA said that his father would have nothing further to do with the business.

A case was compiled and Mr TAWANA was issued with a further simple caution on 10th January 2014 agreeing that he committed criminal offences under the Trade Marks Act 1994 and the Consumer Protection from Unfair Trading Regulations 2008.

Lambar Singh TAWANA has been present throughout and despite the change of DPS and premises licence holder is still really the person in control. Complaints have been received since 2011 about this premise, so for the last 4 years Mr TAWANA has managed to get away with constantly buying illicit alcohol from the back of unknown vehicles, receiving no invoices for this alcohol which he is openly selling to the public.

Following the last review where his son Amar TIWANA took over as Premises Licence Holder, and Mr TAWANA was removed as DPS and premises licence holder it was understood Mr TAWANA would no longer have any day to day running of the premise, and yet he has admitted in interview on 14th January 2016 he is the only one who does the buying for the supermarket and he is responsible. He stated the Licence Premise Holder and the Designated Premise Supervisor are not even employed by the business and they do not work at the shop and only visit sometimes.

Together with all the history of this premise combined, Mr TAWANA continues to purchase and sell on illicit alcohol and tobacco. He is also potentially selling illicit products to underage persons, completely ignoring all requests made by the Responsible Authorities and the two cautions he has received.

The CCTV continues to not record up to 28 days, which is a condition imposed on his licence and following the last review.

Buying illicit alcohol from unknown sources is a way of avoiding tax on the alcohol. So far no dangerous alcohol has been found but Mr TAWANA does not seem to consider this risk, and does not seem to understand the importance of his licence or his son's licence conditions imposed on the business. He seems only to want to gain profit for his business, avoiding tax and shying away from his responsibilities as a trader to the public.

There has been a recent change of licence on 19th April 2016 following the last two seizures but Mr TAWANA continues to be present in the shop on a daily basis being noted serving behind the counter on several occasions including 22nd April 2016 and 9th May 2016. It seems that irrespective of who is named as DPS or premises licence holder Mr TAWANA is still running the shop and this change of DPS and premises licence holder is just a paper exercise to cover what is really going on as in the last time when Mr TAWANA's son became premises licence holder.

For all the serious matters mentioned it is the opinion of the officers involved and the Chief Inspector of Weights and Measures that such illegal and irresponsible activity will carry on unless the licence to sell alcohol is revoked.

gg/tss/1689/mw/jj

Please tick ✓ yes

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

no

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

On the 25th March 2013 an application was made by the Chief Inspector of Weights and Measure for Birmingham Trading Standards to review the Premises Licence following an inspection of the premises on the 5th February 2013 and 16th March 2013.

This application was heard by the Licensing Committee on the 14th May 2013. During this time an application was made by Amar TIWANA on 5th April 2013 to transfer the premises licence from Lamber Singh TAWANA to Amar TIWANA with immediate effect.

Following the hearing, it was decided it was neither proportionate nor appropriate to revoke the licence, as Lamber Singh TAWANA was removed as Premise Licence Holder and Designated Premise supervisor. The reasons for removing TAWANA were due to concerns raised by West Midlands Police and Trading Standards that poor management competency gave rise to issues of crime, and public safety at the premises over a 24 month period. TAWANA had demonstrated irresponsible day to day management of the premises; he received a caution for the sale of alcohol to a child; purchased counterfeit alcohol and breached numerous licensing conditions.

In addition to these comments, TAWANA has received a second caution following on from these visits for supplying alcohol with counterfeit back labels under the Trade Marks Act 1994, and for stating or otherwise giving the impression that they can be legally sold when they cannot under the Consumer Protection from Unfair Trading Regulations 2008.

gg/tss/1689/mw/jj

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

Part 3 – Signatures (please read guidance note 4)

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

Signature

Date

10th May 2016

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

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

Notes for Guidance

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

gg/tss/1689/mw/ij

Appendix 3

BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003

PREMISES LICENCE

Premises Licence Number:

3016 / 3

Part 1 - Premises details:

Postal address of premises, or if none, ordnance survey map reference or description Weoley Local 159 - 161 Somerford Road Weoley Castle	
Post town: Birmingham	Post Code: B29 5LB
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 08:00 - 20:00 M2	
The opening hours of the premises Monday-Sunday 08:00 - 20:00	
Where the licence authorises supplies of alcohol whether these are on and/or off supplies Off Supplies	

BIRMINGHAM CITY COUNCIL

Part 2

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

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

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

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

Dated 26/05/2016

SHAID YASSER
Senior Licensing Officer
For Director of Regulation and Enforcement

BIRMINGHAM CITY COUNCIL

Annex 1 – Mandatory Conditions

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

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

The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol:- The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

(2) In this condition:- (a) "permitted price" is the price found by applying the formula $P = D + (D \times V)$, where- (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol; (b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence- (i) the holder of the premises licence, (ii) the designated premises supervisor (if any) in respect of such a licence, or (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence; (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

(3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.

(4) Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

BIRMINGHAM CITY COUNCIL

Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

The DPS will train all staff at the premises on the basic laws of selling alcohol and the conditions on the premises licence.

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

No enforceable conditions identified from operating schedule.

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 manager will actively discourage any youths from congregating outside the premises.

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

A sign stating that no sales of alcohol to under 18 year olds will be displayed at the premises.

All alcohol sale refusals will be noted in a refusals book.

BIRMINGHAM CITY COUNCIL

Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

Prior to any future application made for the variation of the Designated Premises Supervisor with the exception Mr Amar Tiwana, the Premises Licence Holder must consult Birmingham South (Licensing Department) about the new applicant for approval.

CCTV to be fitted to the specifications and recommendations of West Midlands Police (Birmingham South Licensing Department).
Images to be held for a minimum of 28 days, and made available and downloadable immediately on request by any Responsible Authority.
To be working and recording at all times the premises is open for licensable activities.

A Challenge 25 policy to be implemented at the premises.

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

N/A

3c) Committee conditions to promote public safety

N/A

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

N/A

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

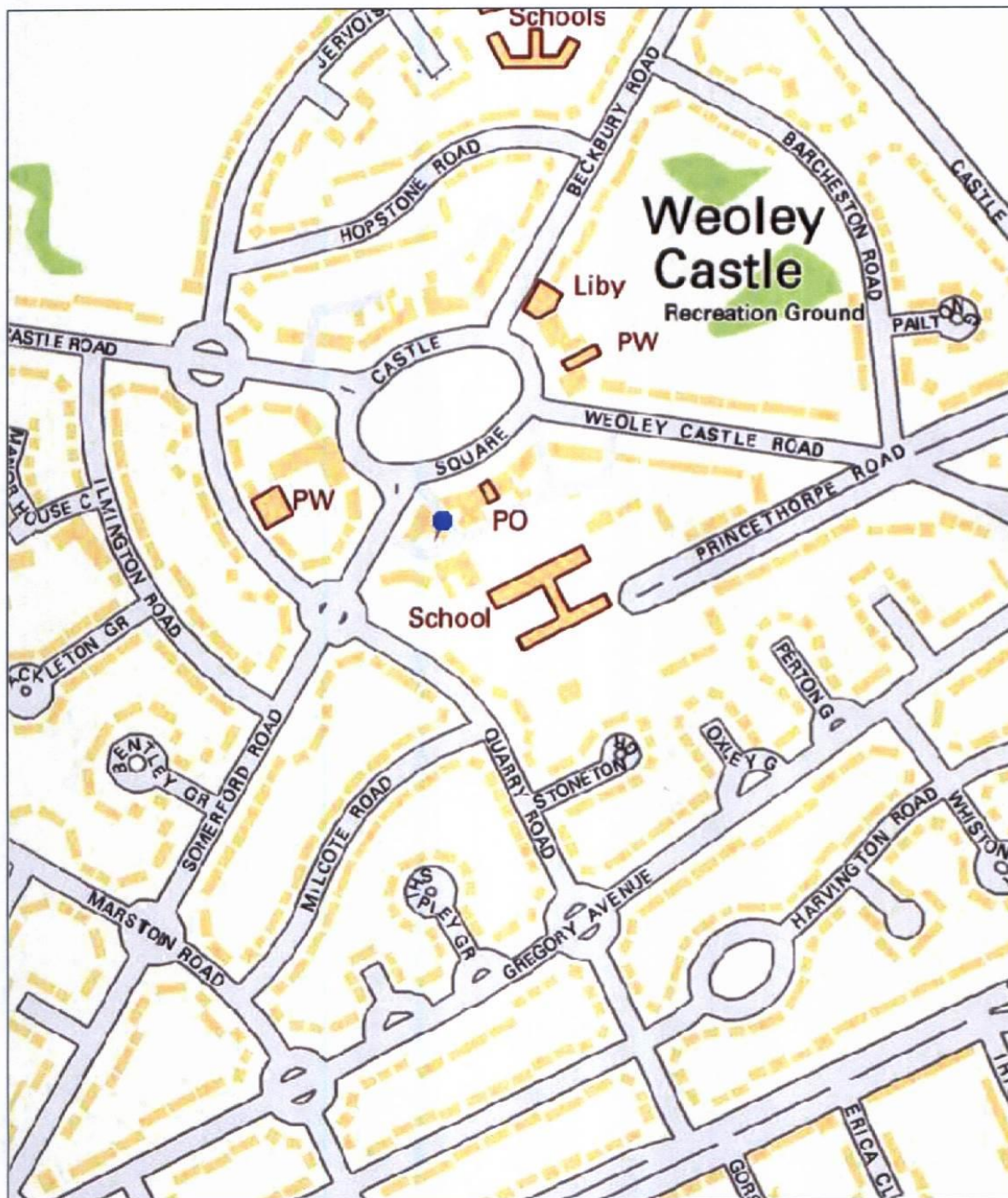
N/A

BIRMINGHAM CITY COUNCIL

Annex 4 – Plans

The plan of the premises with Drawing reference number **07.70.1** 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.

Appendix 4



Map Created By:

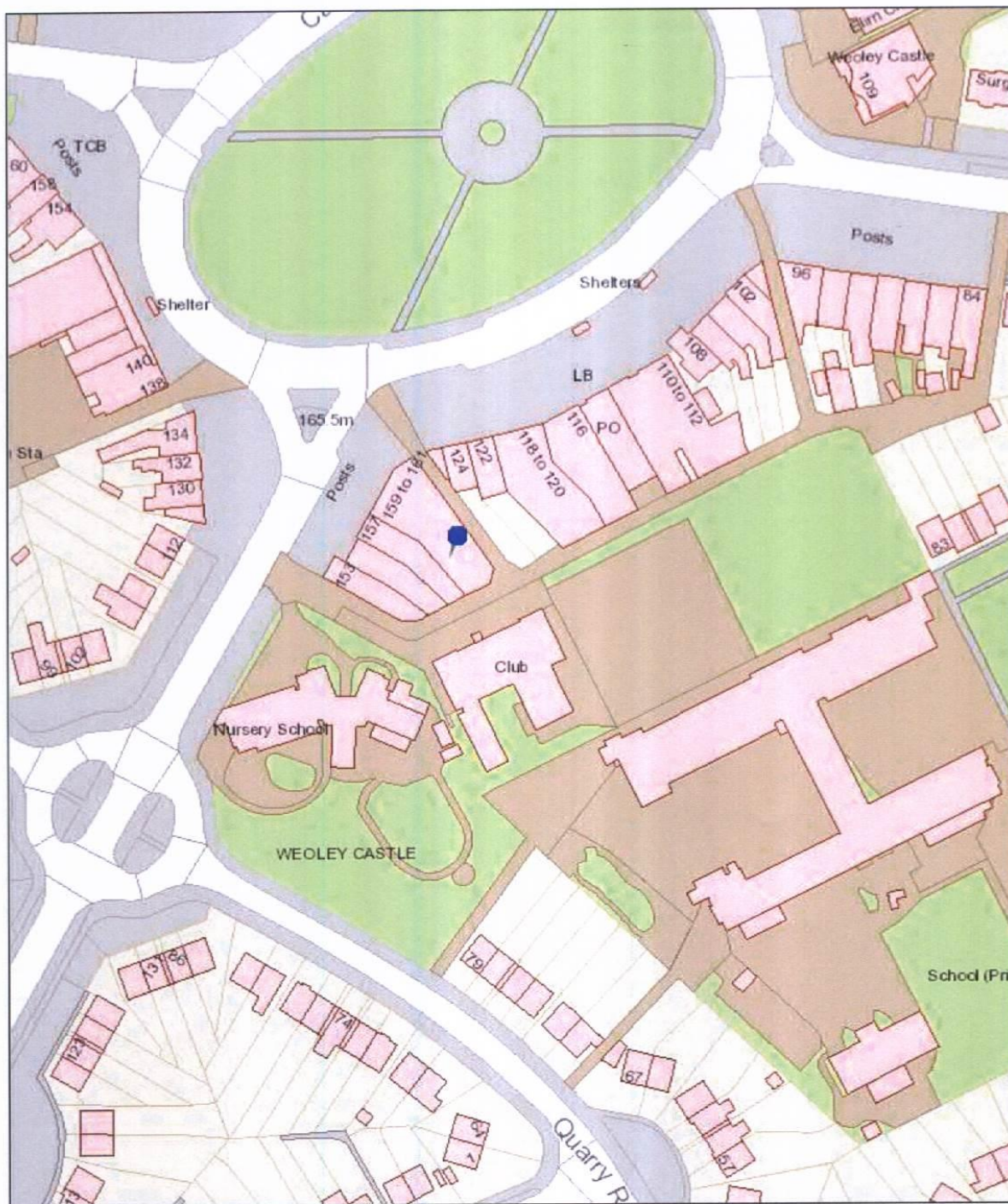
Notes

Date of Map Creation: 13/06/2016



Scale:
1:4,000

(c) Crown copyright. All rights reserved. Birmingham City Council 100021326 (2016).
You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.
(c) GeoPerspectives, supplied by Bluesky International Ltd
Cities Revealed® copyright by The GeoInformation® Group, 2014 and Crown Copyright © All right reserved



Birmingham City Council

Map Created By:

Date of Map Creation: 13/06/2016

Notes



Scale:
1:1,250

(c) Crown copyright. All rights reserved. Birmingham City Council 100021326 (2016).
You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.
(c) GeoPerspectives, supplied by Bluesky International Ltd
Cities Revealed® copyright by The GeoInformation® Group, 2014 and Crown Copyright © All right reserved

