

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE B

TUESDAY, 07 MARCH 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 meeting You Tube site (www.youtube.com/channel/UCT2kT7ZRPFCXq6_5dnVnYlw) 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**

5 - 34

4 **MINUTES**

To note the public part of the Minutes of the meeting held on 24 January 2023 at 1000 hours and to confirm and sign the Minutes as a whole.

To note the public part of the Minutes of the meeting held on 24 January 2023 at 1200 hours and to confirm and sign the Minutes as a whole.

To note the public part of the Minutes of the meeting held on 31 January 2023 at 1000 hours and to confirm and sign the Minutes as a whole.

35 - 60

5 **LICENSING ACT 2003 PREMISES LICENCE – GRANT MORRISONS
STORE & PETROL FILLING STATION, 280 COVENTRY ROAD,
BORDESLEY GREEN, BIRMINGHAM, B10 0XA**

Report of the Assistant 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

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

1 **MINUTES**

To note the private part of the Minutes of the meeting held on 24 January 2023 at 1000 hours and to confirm and sign the Minutes as a whole.

To note the private part of the Minutes of the meeting held on 24 January 2023 at 1200 hours and to confirm and sign the Minutes as a whole.

To note the private part of the Minutes of the meeting held on 31 January 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
TUESDAY 24 JANUARY
2023**

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY 24 JANUARY 2023 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Diane Donaldson in the Chair;

Councillors Saddak Miah and Adam Higgs.

ALSO PRESENT

David Kennedy – Licensing Section
Joanne Swampillai – Legal Services
Katy Townshend – Committee Services

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

1/240123 **NOTICE OF RECORDING/WEBCAST**

The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

2/240123 **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.

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interests flowchart which provides a simple guide to declaring interests at meetings.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/240123 No apologies were submitted.

MINUTES

4/240123 The public section of the Minutes of the meeting held on 20 October 2022 at 1000 hours were noted.

The Minutes of the meeting held on 15 November 2022 at 1200 hours were circulated, and confirmed and signed by the Chair.

LICENSING ACT 2003 PREMISES LICENCE – REVIEW – PREMIER, 393 SUMMER LANE, NEWTOWN, BIRMINGHAM, B19 3PL.

On Behalf of the Applicant

Chris Jones – (WMP) West Midlands Police

On Behalf of the Premises Licence Holder

Duncan Craig – Barrister, Citadel Chambers

* * *

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

Opening for the (PLH) Premises Licence Holder, Duncan Craig of counsel, confirmed to the Committee that WMP and the PLH were in an agreed position to adjourn the hearing to a further date due to The Crane hearing being scheduled later that day. Furthermore, there were also additional instructions he needed to take from his client in respect of the additional documentation submitted by WMP. He suggested that the hearing be scheduled a week later.

Chris Jones, on behalf of WMP, agreed with the submissions made by Duncan Craig.

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

5/240123 **RESOLVED:-**

That the meeting to consider the application in respect of Premier, 393 Summer Lane, Newtown, Birmingham, B19 3PL, be adjourned to a date outside the statutory hearing window, in accordance with regulation 12 of the Licensing Act 2003 (Hearings) Regulations 2005.

The Sub-Committee heard that counsel for the premises, together with West Midlands Police, requested that the matter be adjourned for a week. The meeting was therefore adjourned.

The rescheduled hearing date is Tuesday 31st January 2023. This will be an online meeting conducted via Microsoft Teams.

EXCLUSION OF THE PUBLIC

6/240123

RESOLVED:-

That in accordance with Regulation 14 of the Licensing Act 2003 (Hearing) Regulations 2005, the public be excluded from the hearing due to the sensitive nature of the evidence to be presented.

CHAIR.....

BIRMINGHAM CITY COUNCIL

**LICENSING
SUB-COMMITTEE B
TUESDAY 24 JANUARY
2023**

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY 24 JANUARY 2023 AT 1200 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Diane Donaldson in the Chair;

Councillors Saddak Miah and Adam Higgs.

ALSO PRESENT

David Kennedy – Licensing Section
Jeremy Phillips KC & Joanne Swampillai – Legal Services
Katy Townshend – Committee Services

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

8/240123 **NOTICE OF RECORDING/WEBCAST**

The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

9/240123 **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.

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interests flowchart which provides a simple guide to declaring interests at meetings.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

10/240123 No apologies were submitted.

LICENSING ACT 2003 PREMISES LICENCE – SUMMARY REVIEW – THE CRANE, 50 ADDERLEY STREET, BIRMINGHAM, B9 4ED.

On Behalf of the Applicant

Gary Grant – Barrister
Ben Reader – (WMP) West Midlands Police
Chris Jones – WMP

On Behalf of the Premises Licence Holder

Damian Eston – (PLH) Premises Licence Holder -Digital Arts Media Limited
Nicholas Levisieur – Barrister, 3 Paper Building Chambers
Rakesh Gadhis – DPS (Designated Premises Supervisor)

On Behalf of Those Making Representations

Martin Key – (EH) Environmental Health
Martin Williams – (TS) Trading Standards
Shaïd Ali – (LE) BCC Licensing Enforcement
Will Power & Abdool Rohomon – Lab 11
Sara Bremner and Abdool Rohomon – Oval Real Estate

* * *

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

Opening for West Midlands Police (WMP), Mr Gary Grant of counsel, made application under Regulation 14(2) Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005 No.44) for the licensing authority to exclude the public from part of a hearing on the ground that the public interest in so doing outweighed the public interest in the hearing, or that part of the hearing, taking place in public. The basis of the application was that following a knife attack at the premises on 26 December 2022 three persons had been charged with murder. A trial had been set down for July 2023. Police investigations were underway, and they did not want to jeopardise any criminal proceedings.

Counsel for the Licensee, Nicholas Levisieur supported the application from WMP and were too concerned that the evidence intended to be presented may hinder the criminal investigation, particularly the jury trial.

Abdool Rohomon, on behalf of both Lab 11 and Oval Real Estate submitted that they had additional evidence regarding a video on social media but did not intend on jeopardising the criminal proceedings. They had not served the video.

After a short adjournment the Chair advised that the Committee had determined that the public would be excluded from those parts of the proceedings.

The Chair then explained the hearing procedure prior to inviting the Licensing Officer, David Kennedy, to outline the report.

Further, the representative for the Licence Holder advised that much of their evidence bundle contained interlinked material and as such, should be placed before the Committee in private. The redactions could then be dealt with afterwards and placed in the public domain once the sensitive material had been considered. This was agreed by the Committee.

The Committee retired for lunch at 1300 hours.

The meeting was reconvened at 1333 hours and the Chair invited the applicant to make their submission and Gary Grant, on behalf of WMP made the following statements: -

- a) At the Interim Steps hearing on 30th December 2022 WMP submitted that the licensing objectives of crime and disorder and public safety were at grave risk.
- b) They had carried out further investigations and considered the evidence bundle from the PLH but their view remained the same. If the venue was permitted to reopen, those licensing objectives would remain at grave risk.
- c) The police requested that the licence be revoked.
- d) The licence for The Crane was only granted in the Summer/Autumn of 2022, so had only operated for a short time, some three months, yet a murder at the premises had taken place and a Summary Review had been triggered. Indicating the terrifying risk involved in the operation of this venue.
- e) On Boxing Day a young man, Cody Fischer was tragically murdered inside the venue, when police investigated, they discovered blatant and wide spread drug use being unchallenged inside the premises. Including Nitrous Oxide being used and supplied within the premises and hundreds of discarded drug bags containing white powder all over the dancefloor.
- f) The PLH failed to uphold the highest standards of management of this venue.
- g) Searches were inconsistent and hap hazard, and the perimeter of the venue was left unsecured. There are only two possible ways the murder weapon and drugs got into this premises, through the inadequate search regime, or they came over the unsecured perimeter wall. Either way, when running a venue with a capacity of over 1000 persons, they are not details that can be overlooked or forgiven. It is inadequate operation.

- h) The event on Boxing Day resulted in three people being carried out of the venue due to drug overdoses, one of which had to be assessed and taken by an ambulance. Looking at the events, not just a murder, but also a general perception that the event was not properly controlled; the state of three customers whom had to be carried out, a knife got into the premises, drug use and supply inside the premises, CCTV shows a blatant disregard by staff. All of which led WMP to the conclusion that they have no confidence that this operator can operate this venue and therefore, they were seeking revocation.

At this stage WMP indicated that they wished to go into private session.

EXCLUSION OF THE PUBLIC

11/240123 **RESOLVED:-**

That in accordance with Regulation 14 of the Licensing Act 2003 (Hearing) Regulations 2005, the public be excluded from the hearing due to the sensitive nature of the evidence to be presented.

The public were readmitted to the meeting and the Chair invited those making representations to present their case.

Martin Key, EH, was invited to make his case and he made the following points: -

- a) That he hadn't heard anything the PLH had said as it was held in private, so he was going purely from the information in front of him.
- b) There is a long history involving the premises since 2017.
- c) WMP had described chaos at the premises, drug use and inadequate security.
- d) EH objected to the original application in 2017, due to concerns about noise mitigation, the residential nearby, large capacity of the premises and the large, glazed roof panels. Conditions were attached to the licence.
- e) Prior to the premises operating, a noise assessment needed to be carried out and a mitigation scheme in place. Despite requests for that, nothing was provided.
- f) EH carried out investigations and there was significant low noise impact which would amount to nuisance.
- g) To date no noise management plan has been submitted or approved.
- h) In absence of that, it indicates a failure to uphold the licensing objectives and EH fully supported WMP that they had no confidence in the management of the premises to uphold the licensing objectives of public nuisance, noise nuisance and crime and disorder.

Martin Williams, TS, was then invited to make his case and he made the following points: -

- a) TS support WMP in the review application.
- b) The evidence from WMP points to a complete lack of management at the premises, particularly regarding the prevention of crime and disorder and public safety objectives.

Mr Leviser on behalf of the PLH asked Mr Key the following questions: -

- 1. Is any noise mitigation in place?
- 2. When did EH last carry out an inspection?
- 3. Had Mr Key been unwell, so not been able to work?
- 4. Do the conditions attached to the premises apply?
- 5. Are the conditions attached to the licence a clerical error?

Mr Key gave the following responses: -

- 1. He wasn't aware of any noise mitigation at the premises.
- 2. There haven't been any further inspections, as far as he was aware the premises wasn't open or trading.
- 3. He had been off work for 2 weeks but had still been dealing with matters, including planning in relation to the premises.
- 4. The conditions do apply.
- 5. That he couldn't answer that.

The Chair invited Shaid Ali, LE to outline his points and he made the following points: -

- a) He had been in contact with WMP Licensing Team and they had shared the information as to the scene at the premises when they arrived.
- b) He's received emails and made further enquiries.
- c) One email had video footage that was uploaded onto social media; it was very distressing. It shows the injured parties receiving treatment and the area around it was littered with Nitrous Oxide cannisters and the video clearly shows someone inhaling a balloon, the patron was oblivious to the fact security and the police were there.
- d) The zero tolerance drug policy isn't being enforced and the police back this up with their observations; drug bags were found on the floor and Nitrous Oxide cannisters.
- e) There was another anonymous email suggesting that the private medical company be contacted as they had made a number of recommendations to Mr Eston regarding the operation and Mr Eston had refused the recommendations. After that they advised that medical cover needed to be increased and that the event they covered prior to Boxing Day, the level of

medical cover was unsafe for them to continue. Again, he refused those recommendations.

- f) The medical company reported that during 6 events, 16 out of 21 patients were assessed and were displaying symptoms of recreational drug use. This confirms what WMP witnessed on the night in question and that the zero tolerance drug policy was not being upheld.
- g) He supported WMP's recommendations.

Mr Levisaur asked the following questions: -

- 1. Is Nitrous Oxide an illegal drug?
- 2. Did Mr Ali know that Nitrous Oxide was legal?
- 3. That out of 15000 patrons over the course of the events covered by medical staff, 16 were attended to for drug related problems. Did that suggest that the management weren't trying to enforce a zero-tolerance drug policy?

Shaid Ali responded: -

- 1. That Nitrous Oxide wasn't illegal in the food industry, but it was illegal to inhale it.
- 2. He stood corrected; he wasn't aware it was legal to inhale.
- 3. That whilst it might be a few people out of thousands who attended, it was clear from the footage seen that a drug policy wasn't being enforced.

The Chair then invited Abs Rohomon to make his case on behalf of Lab 11 and Oval Real Estate, as such he made the following points: -

- a) There is anguish and anger within the Digbeth business community.
- b) There had been substantial change in Digbeth; trying to change the reputation after years of bad publicity.
- c) The lack of management at The Crane has caused reputational damage in Digbeth.
- d) Mr Eston isn't a new operator; he had been involved in the night time economy and promoting events for a number of years.
- e) He had held many large scale events.
- f) Sometimes things go wrong, but operators learn from mistakes. Mr Eston has been involved with promoting huge events and festivals all over Birmingham so he knows what is expected. In 2009 he ran a huge carnival in Digbeth with some 9000 patrons, so he should be used to dealing with large capacity events.
- g) Given the information from the medical company and 16 patrons being treated for drug related problems over 6 events, he should have learnt that they were dealing with a drug problem at the premises. Yet the police attended on

Boxing Day to a scene covered in drugs, and the management were turning a blind eye.

- h) He went against professional advice from the medical company when they said more staff were needed.
- i) The video uploaded to social media shows someone blatantly inhaling a balloon and whilst Nitrous Oxide isn't illegal the effects of inhaling it are unknown. The supply of it is a criminal offence.
- j) Premises in Birmingham now operated huge Nitrous Oxide procedures to stop it getting in as they don't know what the effects are.
- k) In this instance, Nitrous Oxide is clearly being supplied to individuals. Three patrons were carried out of the venue under suspected drug use.
- l) There is anger in Digbeth due to all this.
- m) All the hard work over the last 6 years has taken time and money to repair the situation and it had been tarnished.
- n) For Lab 11, New Year's bookings fell significantly. Many people called the premises asking if it was safe to attend. The Crane had caused this due to their lack of management. The Lab 11 event on New Year should have attracted over 1000 people, yet only 300 tickets were sold. People are scared.
- o) All of this is against the backdrop of someone who should have known better. Mr Eston ignored professional advice, a knife got into the premises, and someone was tragically murdered.
- p) Oval Group are landlords for a large number of properties in Digbeth, they take a great deal of interest in business and what people are doing. They take pride in the area and are very proactive.
- q) They had changed the way the area worked and worked with licensed premises to make sure they were operating properly.

Following a short adjournment to seek legal advice regarding cross examination, Mr Levisseur was invited to ask questions which had been previously submitted to the Committee and one question was accepted by the Members during the adjournment: -

1. Did Mr Rohomon know what medical support was actually available and provided at The Crane on Boxing Day?

Abs Rohomon responded: -

1. That he didn't know.

After a short comfort break the Chair invited all parties to make a closing submission, firstly those who had made representations.

Abs Rohomon made the following closing statements on behalf of Lab 11 and Oval Real Estate: -

- That they were still of the opinion that the licence should be revoked, not to do so would indicate a blasé attitude to poor management.
- A licence is granted to premises, and it is for them to promote the licensing objectives, The Crane hadn't done that in any way.
- If the licence is revoked, they requested that the interim step of suspension remain in place during the appeal process as otherwise it would make a mockery of the incident.

Shaid Ali was invited to make his closing statements on behalf of LE: -

- From his own investigations and what he had heard at the hearing, he had not heard anything that would make him change his mind.
- He supported WMP's request for revocation of the licence and that the interim step of suspension should remain in place.

Martin Williams, TS made the following closing statements: -

- That he agreed with the other representations.
- The licence should be revoked, and the interim steps should remain in place.

Martin Key, EH made the following closing submissions: -

- He hadn't had an opportunity to hear the PLH representation in public session.
- On balance the review had clearly identified poor control and a lack of confidence that the operator can uphold the licensing objectives.
- They support WMP's request for revocation and ask that the interim steps remain in place.

Gary Grant on behalf of WMP made the following closing statements: -

- The PLH has put before the Committee how professional and experienced they are, but compare that to the contrast of those assertions and the reality – a knife got into the premises and Nitrous Oxide in commercial cannisters got into the premises, drugs bags were all over the floor along with small Nitrous Oxide cannisters.

- The reality on the ground shows the operators do not have sufficient control over what is going on at this premises. A young man lost his life at the venue.
- The Committee needed to bear in mind everything they had seen and heard in public and private session. Would the Members be comfortable with their son, daughter or loved one attending the next event at the venue?
- The answer to that question indicates what the proportionate and appropriate way to deal with this matter is and what action needs to be taken.
- Revocation of the licence is the most appropriate and proportionate measure, and the interim steps should be maintained.

The PLH was invited to make their closing submission and Nicholas Levisaur made the following closing statements: -

- Rhetorical question submitted by WMP should be answered by risk assessment, which involved evaluation of total number of events, numbers, risk, and outcome. He didn't wish to make any comment at all about what led to the tragic death of a young man in public.
- The evidence has been set out in the bundle provided by the PLH. Instructive to look at what has been asserted as to what the factual position is.
- Revocation is wholly inappropriate in this case. Logically if licence was revoked to maintain interim steps. But revocation isn't appropriate and therefore there are no necessary interim steps.

The Members, Committee Lawyer and Committee Manager conducted the deliberations in a separate private session and the decision of the Sub-Committee was announced and a copy of that decision with reasons was sent to all parties as follows;

12/240123 **RESOLVED:-**

That having reviewed the premises licence held under the Licensing Act 2003 (the Act) by Digital Arts Media Limited in respect of The Crane, 50 Adderley Street, Birmingham, B9 4ED, following an application for an expedited review made on behalf of the Chief Officer of West Midlands Police, this Sub-Committee hereby determines:

1. That the licence be revoked in order to promote the prevention of crime and disorder and the public safety objectives in the Act; and
2. The interim step of suspension, imposed at the Sub-Committee meeting of 30th December 2022, shall remain in place pending the

determination of any Appeal.

The determination of the Sub-Committee, save for maintaining the interim steps decision of the 30th December 2022, 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.

The Sub-Committee also requires the premises to re-submit the licence holder's evidence bundle in its intended redacted form, such that it can be published, without delay, and by 13.00 hours 25 January 2023 at the latest.

Reasons

The review proceedings were conducted virtually through Microsoft Teams and in accordance with the licensing authority's protocol for such matters.

Opening for West Midlands Police (WMP), Mr Gary Grant of counsel, made application under Regulation 14(2) Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005 No.44) for the licensing authority to exclude the public from all or part of a hearing on the ground that the public interest in so doing outweighed the public interest in the hearing, or that part of the hearing, taking place in public. The basis of the application was that following a knife attack at the premises on 26 December 2022 three persons had been charged with murder. A trial had been set down for July 2023. Police investigations were underway and the purpose of those criminal proceedings could be frustrated (or at least harmed) were the entirety of the licence review hearing to be conducted in public. Such an approach could seriously compromise the possibility of a fair trial.

Counsel for the licensee, Mr Nicholas Levisier, supported the application, which the Sub-Committee duly granted, finding that the public interest in preserving the integrity of the criminal proceedings and to secure the proper administration of justice outweighed the countervailing interest in open justice. The Sub-Committee gave a short judgment explaining to the public the nature of what had taken place and in particular why it had had to derogate from the principle of open justice, but solely in relation to those matters which could be capable of affecting the criminal proceedings. Consequently, a direction was made that the public would be excluded from those parts of the proceedings.

Introducing the formal part of the proceedings Mr David Kennedy, Licensing Officer, reported to the Sub-Committee that on the 28th of December 2022, Superintendent Simpson applied for a review under Section 53A at the Licensing Act 2003 as amended by the Violent Crime Reduction Act 2006 in respect of the premises licence granted

to Digital Art Media Limited relating to The Crane, 50 Adderley Street, Birmingham B9 4ED. Licensing Subcommittee B had met on the 30th of December and resolved that the licence be suspended pending the hearing of the expedited review.

Members then heard the public submissions from both parties and evidence from PC Ben Reader (for WMP) and Damian Eston and Rakesh Gadhia (for the licensee) in relation to the events of 26 December 2022.

Following the public element of the police case the Sub-Committee agreed to hear in private further submissions of the police and the response of the licensee. All other persons, save for the committee and its officers, the WMP and its representative and the licensee and its representatives were required to leave the virtual hearing until the public element of the proceedings resumed.

Upon resumption of the public part of the proceedings the committee heard from Martin Key from environmental health. He suggested that there were a number of conditions attached to the licence, which required, prior to any person operating the premises, that a noise assessment should be carried out. However, to date, no noise management plan or noise mitigation scheme had been submitted or approved, and there was no information about any noise limiting device. These were conditions that required compliance prior to the operation of any licensable activity. The EHO had no confidence in the ability of the management operating this site to meet the premises licence conditions or the licensing objectives in respect of public nuisance, public safety and crime and disorder. If the committee were to conclude that revocation was the right answer, then environmental health would also support suspension as an interim measure.

Martin Williams from Birmingham Trading Standards also expressed support for the review brought by West Midlands police, saying that considering the evidence provided by the police, they felt that it pointed to a complete lack of effective management control of the business, particularly with regard to upholding the license and objectives, in particular prevention of crime and disorder and of public safety.

Shaid Ali, Enforcement Officer, gave evidence on behalf of the Licensing Authority as a responsible authority, supporting the police application. He asked that the suspension should remain in place while the committee made its decision..

On behalf of Lab 11 and Oval Real Estate Mr Abdool Rohomon also expressed support for the review, saying that the problems at the venue had occurred due to 'pure lack of management' resulting in 'so much anger' within the local community against the backdrop of somebody who should know better. The venue should have been taking the advice of people, but it ignored that. If the committee determined to revoke the licence he asked that the interim steps of

suspension remain in place.

In closing Mr Grant for the WMP submitted that the reality was that the knife used in the assault, the nitrous oxide in the large commercial canisters and the hundreds of smaller nitrous oxide canisters had clearly somehow made their way into the premises, together with the 'drug bags'. He invited the members of the committee to consider whether they would be comfortable with their son or daughter, or loved one, attending the next event to take place at the premises? The appropriate and proportionate step to take in order to promote the licensing objectives of public safety and the prevention of crime and disorder was revocation of the licence. If that was the committee's decision, the interim step pending any appeal ought to be the continued suspension of the licence.

For the licensee Mr Leviser suggested that the rhetorical question posed by the WMP ought to be answered against the background of risk assessment. That involved an evaluation of the total numbers of events of risk and of outcome of those events. The uncontroverted evidence had been set out in the bundles provided by the licensee, which the committee had considered. His concluding submission was that revocation was wholly inappropriate in the circumstances of this case.

The committee reminded itself that the s 182 Guidance recently re-published by the Secretary of State in December 2022 stated that:

"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. [..]

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 and the prevention of illegal working 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; [..]

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) 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.”

Considering the evidence from all parties, including all photographs submitted, the Sub-Committee accepted on the balance of probabilities that the police had found evidence of open and widespread use of Nitrous Oxide (NO²) within the premises. Although it had been submitted on behalf of the licensee that the use of NO² was not itself illegal, the Sub-Committee accepted that the supply of the substance by one person to another was a criminal offence. Having viewed photographs of open use of the gas by patrons during the evening in question and small and large cannisters (the latter, with dispensing nozzle, measuring some 15 inches in length) the committee could not accept, as suggested on behalf of the licensee, that it would have been difficult for the premises to have observed, or attempted to contain, the activity witnessed.

The committee further accepted that such widespread use was highly indicative of both inadequate controls upon entry, as well as control and supervision of patrons once inside.

Reference was also made by WMP to hundreds of discarded bags containing white powder, which was believed to be ‘one illegal drug or another’. The licensee submitted that in the absence of chemical analysis the committee should not accept that the bags amounted to evidence of illegal drug use. The committee reminded itself, however, that in considering the evidence in this case it should apply the civil standard of the balance of probabilities. It also accepted that there was some evidence of patrons being seen carried out by friends or staff and at least one ambulance had to be called out to deal with a serious drug incident when a friend of the victim had described her as a

dribbling out of her mouth and barely breathing. In the absence of some other explanation, it was a reasonable inference that the bags in question did indeed contain illegal narcotics.

The committee attached some weight to Mr Ali's evidence that videos he had seen demonstrated that there was clear breach of the 'Zero tolerance of illegal drugs' policy. It attached no weight in its decision, however, to his evidence concerning the supposed under provision of medical support by the licensee as this had been anonymous hearsay.

Similarly, the Sub-Committee were inclined to attach little weight when arriving at its decision to the submissions of either Lab 11 or Oval Real Estate, both represented by Mr Abs Rohomon, accepting the submission of the licensee that these were essentially trade objections where it would be difficult to discern the extent to which (if at all) the licensing objectives played a part, given the commercial motivation that in all probability informed the representations made.

Having upheld the principal grounds upon which the review had been brought, the Sub-Committee proceeded to consider what steps (if any) should be taken in respect of the premises licence, beginning with those that would have least impact upon the licensable activities carried out at the premises.

Although the Sub-Committee gave careful consideration to the broad submissions made by the premises licence holder, members were not persuaded that the issues identified could be addressed satisfactorily without some further action. The Sub-Committee therefore gave consideration as to whether it could modify the conditions of the licence, remove the Designated Premises Supervisor or suspend the licence for a specified period of not more than 3 months. However, it accepted that the underlying problems that had been revealed at the premises were suggestive of a fundamental failure of the premises to engage with the problems that were so clearly evident at the premises whilst under their management. Accordingly no lesser step than revocation would suffice to resolve the issues which had been identified in relation to the promotion of the licensing objectives.

In reaching its decision that the premises licence should be revoked and, separately, that the interim step of suspension, imposed at the Sub-Committee meeting of 30th December 2022, should remain in place, pending the determination of any Appeal, having regard to promotion of the licensing objectives and relevant representations made, the Sub-Committee gave 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 and certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003, and
 - the written representations, evidence and submissions made at the hearing by the police and the premises licence holder and its legal

representative, as well as the responsible authorities and other persons.

Rights of appeal

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal to the Magistrates' Court against the decisions of the Licensing Authority both in relation to the review of the premises licence under section 53C and the review of the interim steps under section 53D, such an appeals to be made within twenty-one days of the date of notification of the decision.

The determination of the Sub-Committee under section 53C 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 disposed of.

The meeting ended at 1803 hours.

CHAIR.....

BIRMINGHAM CITY COUNCIL

**LICENSING
SUB-COMMITTEE B
TUESDAY 31 JANUARY
2023**

MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE B HELD ON TUESDAY 31 JANUARY 2023 AT 1000 HOURS AS AN ON-LINE MEETING.

PRESENT: - Councillor Diane Donaldson in the Chair;

Councillors Saddak Miah and Adam Higgs.

ALSO PRESENT

David Kennedy – Licensing Section
Joanne Swampillai – Legal Services
Katy Townshend – Committee Services

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

1/310123 **NOTICE OF RECORDING/WEBCAST**

The Chairman advised, and the Committee noted, that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public would record and take photographs except where there are confidential or exempt items.

2/310123 **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.

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.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3/310123 No apologies were submitted.

**LICENSING ACT 2003 PREMISES LICENCE – REVIEW – PREMIER, 393
SUMMER LANE, NEWTOWN, BIRMINGHAM, B19 3PL.**

On Behalf of the Applicant

Chris Jones – (WMP) West Midlands Police
PC Dalton – WMP
Huram Taj – WMP (Observing and assisting with technology issues)

On Behalf of the Premises Licence Holder

Duncan Craig – Barrister, Citadel Chambers

* * *

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

Opening for the (PLH) Premises Licence Holder, Duncan Craig of counsel, advised that he was unable to open the footage WMP intended to show at the hearing. He did manage to open it with assistance, but he hadn't been able to take instruction from his client regarding that footage. Due to the on-going investigation, he requested that the hearing be held in private.

Chris Jones, on behalf of WMP, agreed with the submissions made by Duncan Craig.

Following a short adjournment to seek legal advice, the Committee resolved that the hearing would be held in private to ensure that no sensitive material ended up in the public domain and subsequently hindering the criminal proceedings.

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

At this stage WMP indicated that they wished to go into private session.

EXCLUSION OF THE PUBLIC

4/310123 **RESOLVED:-**

That in accordance with Regulation 14 of the Licensing Act 2003 (Hearing) Regulations 2005, the public be excluded from the hearing due to the sensitive nature of the evidence to be presented.

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

5/310123

RESOLVED:-

That, having reviewed the premises licence held under the Licensing Act 2003 by Raj Kumar, in respect of Premier, 393 Summer Lane, Newtown, Birmingham B19 3PL, upon the application of West Midlands Police, this Sub-Committee hereby determines that:

-
- the Licence be revoked, and that
 - Anna Urbanowicz be removed as Designated Premises Supervisor
-

in order to promote the licensing objective in the Act of the prevention of crime and disorder. The Sub-Committee's reasons for revoking the licence were due to the concerns expressed by West Midlands Police, as outlined fully in the Committee Report.

The meeting was conducted in private session after the Sub-Committee considered an application made by counsel for the premises licence holder under regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005. Counsel explained that to hear the evidence in public would undermine an ongoing criminal investigation, and that it was best to hold the entire hearing in private. He had discussed this with West Midlands Police, who confirmed that CCTV recordings were to be played in the meeting, and that they were happy for the entire hearing to be held in private. The Sub-Committee therefore agreed to hold the meeting in private session.

The Police summarised the investigation thus far, as per the documents in the Committee Report. On the 5th November 2022, local neighbourhood police officers had been made aware that alcohol had been stolen (shoplifted) from other licensed premises. The theft had happened that morning, and was thought to have been around twenty bottles, with a value of approximately £350.

Whilst making enquiries, officers become aware that, shortly after the theft from other licensed premises, the suspected shoplifters had been seen leaving the Premier shop in Summer Lane. CCTV from the Premier shop was therefore examined, and was found to clearly show the suspected shoplifters entering Premier carrying bottles of alcohol; thereafter, a female staff member behind the counter at Premier was

shown purchasing the bottles of alcohol from the suspected shoplifters. This female member of staff was arrested for handling stolen goods.

Officers also spoke to a male at Premier, believed to be the licence holder, and explained that they would be conducting a search of the shop to look for stolen property. Upon hearing this, the male produced two bottles of spirits; both bottles had hard plastic security tags attached, of the type that is removed at point of sale. Officers observed that these bottles must have been stolen, as Premier did not have any such system of hard plastic security tagging in place.

The two bottles were not part of the twenty bottles which had been shoplifted that morning from other licensed premises, as they were a different brand. However, the presence of security tags on the two bottles, when Premier did not use such security devices, suggested the overwhelming likelihood that they had been stolen in other theft offences. Officers conducting a search then found further, numerous, bottles of alcohol on which security tags had been removed, damaging either the packaging or the labels. The same packaging damage was observed on other products found, such as razor blades.

The Police remarked that the production by the licence holder of two stolen bottles of alcohol strongly indicated that the purchase of stolen property was a regular occurrence at Premier, and moreover that it was something of which the licence holder was aware.

Officers seized all the items believed to be stolen, and also the premises' CCTV hard drive. Examination of the events of the morning of the 5th November 2022 showed that the female member of staff behind the counter at Premier had purchased alcohol from the shoplifters some 17 minutes after they had stolen alcohol from another premises. This suggested that the offenders were confident that stolen items would be welcomed at Premier.

Moreover, the Police had noted in the Committee Report that all the items seized by officers were items of the type targeted by organised groups of thieves carrying out bulk thefts at retail premises around the city.

On the 7th November 2022 officers returned to the Premier shop and spoke to the licence holder Mr Raj Kumar. Another male in the shop acted as interpreter, although officers observed that the licence holder was capable of holding a conversation in English.

The licence holder confirmed that officers attending on the 5th November had seized the CCTV hard drive. Officers informed him that any sale of alcohol without a functioning CCTV system in operation would be a breach of a condition of the licence; in response to this, Mr Kumar stated that he was not selling alcohol, and pointed out that two of the fridges had their shutters down. However, officers observed that all other alcohol in the premises was displayed for sale in the normal

manner, with no indication that it was not for sale.

Regarding the incident of the 5th November, Mr Kumar confirmed that the female member of staff behind the counter who had purchased the stolen alcohol was still employed at Premier. Officers then began a compliance check, but found that Mr Kumar could not supply staff training records or the incident book. The refusals register was available, but showed no entries whatsoever. Mr Kumar stated that all paperwork unavailable for inspection “had been destroyed in a flood” at the premises, some four months previously; however, he gave no explanation as to why it had not been replaced or renewed.

The seized CCTV hard drive held images for up to six months. Officers viewed the footage and noted that it showed staff at Premier buying what the Police considered to be “large quantities” of stolen goods. Taking the approximate 12 week period of 7th August – 5th November 2022, the officer had viewed twenty days selected at random, and had found sixty occasions in which staff behind the counter appeared to purchase stolen goods from shoplifters visiting Premier to offer items for sale.

A selection of the CCTV recordings showing these purchases of stolen goods was played to the Sub-Committee – eleven clips in total. The persons conducting these purchases were the licence holder Mr Kumar, and two other staff members. They were shown to be involved via the CCTV footage. One was a female, the other was the male who had acted as interpreter. The items purchased from shoplifters included bottles of alcohol, bottles of soft drink, and large tins/tubs of the type used by chocolate brands.

All of the stolen goods accepted by the staff member on duty were paid for in cash, and no receipts or invoices were exchanged. The Police observed that these transactions were “very unlikely” to have been put through the premises’ accounts. The Police remarked that, if this were the case, it would mean that tax would not have been properly paid.

Once purchased, some of the stolen goods were put on display in the shop straight away, for immediate sale to the public – yet the licence holder would have had no idea of the provenance of the goods, or whether the genuine product was in the container, or if they were safe for consumption and/or to sell to the public, and would not have known if they had been stored correctly before selling them, as they had not been purchased through a legitimate supplier.

Persons described by the Police as “prolific shoplifters” had been identified on seven out of the eleven clips. The Police acknowledged that not all shoplifting offences were reported to them, but there had been three crime reports in relation to the clips shown to the Sub-Committee. These persons had been identified, prosecuted and convicted of theft. The Police remarked that the Premier shop was

“profiting from other premises which had been the victims of crime”, by purchasing stolen property on a regular basis.

The Police also reminded the Sub-Committee that if Premier were not purchasing the items, then the offenders would not be committing the thefts, as they would not have an outlet to exchange stolen goods for ready cash with no questions asked. The Sub-Committee agreed with this.

Having played the selection of eleven CCTV clips to the Sub-Committee, the Police stated that they had no confidence in the premises to uphold the licensing objectives, particularly the prevention of crime and disorder, and accordingly requested that the licence be revoked.

The Sub-Committee then heard submissions from counsel for the licence holder, who confirmed that he had been instructed on the Review application itself, and the Police statement, but that he was not able to comment on the CCTV as he had not been instructed on that. He noted that the Review application had made reference to a female member of staff, and to a male acting as interpreter, and not Mr Kumar. Regarding the CCTV footage, he asked the Sub-Committee to consider whether a person with criminal intention would allow it to be seen on recordings, inviting the Members to consider whether it was more likely that such a person would turn the camera off.

Regarding the lack of compliance with the licence conditions, counsel confirmed that the licence holder acknowledged the failings, and was in the process of engaging a consultant to resolve those issues in the next few weeks.

Regarding the CCTV footage, counsel noted that the Police had described some of the shop’s visitors as “known offenders”, but that there was nothing to corroborate that, and he was unable to challenge it. Regarding the stolen goods, counsel observed that in matters involving the handling of stolen goods there was usually some evidence in relation to the provenance of such goods, but in this case he was not in a position to evaluate that. The incident had occurred in November of 2022 and counsel was not aware of anything further being brought to the attention of the Police since then.

Counsel pointed out to the Sub-Committee that looking at CCTV footage did not always provide the full picture, because the element of context was required. He urged the Members to consider paragraph 9.12 of the Guidance issued under s182 of the Act, which required that the evidence of a responsible authority should be given scrutiny. He also directed the Members’ attention to paragraph 9.43 of the Guidance, and asked them to be proportionate in making their decision.

He acknowledged that the Sub-Committee might feel that some

sanction should be imposed on the premises, and recommended that the Members could consider imposing a suspension of the licence, of a period of up to three months. He also asked the Sub-Committee to note that the licence holder felt that Premier was important in terms of serving the local community. The Sub-Committee did not hear from the licence holder directly, as he had not attended the meeting.

Members asked counsel to confirm who the designated premises supervisor [DPS] was for Premier; counsel confirmed that it was the licence holder. However, the Principal Licensing Officer stated that his officers had reviewed the application history for the premises, and had found that on the 4th March 2021 a simultaneous transfer and DPS variation had been received, to change the licence holder to Mr Kumar, and the DPS to Anna Urbanowicz, with immediate effect. This had not been shown in the documents within the Committee Report, due to a data migration error during the implementation of new software, but the position was that Anna Urbanowicz was the DPS for Premier. Counsel accepted this.

The Sub-Committee then heard closing submissions. The Police stated that the offenders were known to local police officers, who had had previous dealings with them. The Police reiterated that whilst they acknowledged that not all shop thefts were reported, in this case three of them had been; the Police had identified the offenders, who had later been convicted.

The Police opinion was that the premises was not promoting the licensing objectives, particularly not in terms of the prevention of crime and disorder – indeed it was doing the opposite, and in fact increasing criminal activity, by offering cash in return for stolen goods. The Police confirmed that, with those facts in mind, their request was for revocation. Counsel then asked the Sub-Committee to scrutinise the evidence closely, and to make a proportionate determination.

When deliberating, the Sub-Committee agreed with the Police that for any licensed premises to be involved in handling or purchasing stolen goods from local shoplifters put the licensing objectives at very grave risk; as such, the Sub-Committee took a very dim view of it. It was a drain on the public purse, as West Midlands Police had to allocate resources to investigate and deal with a criminal activity which had been undertaken, for profit, by a person who should have been more than aware of the standards expected of all licence holders in Birmingham. The breaches of condition were likewise unacceptable.

The Police had observed that they had no confidence whatsoever in the management at Premier to uphold the licensing objectives. After scrutinising the Police evidence carefully, in particular by viewing the eleven CCTV clips, the Members shared the Police concerns. The Police had remarked that the CCTV “spoke for itself”; the Members agreed with this. Whilst counsel had felt that CCTV did not always give the full picture, the Members felt that what it had shown was more than

sufficient to confirm that the premises was operating in a manner which undermined the licensing objectives.

Although counsel had invited the Members to reflect on whether a licence holder with criminal intent would not simply turn the CCTV camera off, it was equally likely that where there was little regard for the law, this might not be a consideration. Certainly the eleven CCTV clips played in the meeting had amply demonstrated that, in the day to day operation of the Premier shop, it was entirely usual that local shoplifters would arrive bearing armfuls of stolen goods (in one instance, waiting outside the front door for the premises to open), confident that these goods could instantly be exchanged for cash from whoever was manning the till. The Members noted that the random sample of twenty days viewed by Police had shown sixty instances of such transactions.

The Sub-Committee looked at all options when making its decision, and placed particular emphasis on the need to ensure that it had confidence that the management of the shop would not engage in, and encourage, criminal activity; criminal activity affected not only consumers, but also respectable local businesses in Birmingham.

The Members were also aware of the need to consider whether they had confidence that the premises could uphold not only the licensing objectives generally, but also its own licence conditions, given what had been found in the compliance check. Counsel had stated that a consultant would be engaged shortly to deal with the compliance issues, but the Members were unsure how Mr Kumar had felt that his style of management was a proper way to operate licensed premises. Nothing in his operating style inspired confidence.

The Members gave consideration to counsel's suggestion that they should suspend the licence for a specified period, but were not satisfied, given the evidence submitted, that the licensing objectives would be properly promoted following any such determination, or that the premises would operate within the law if the determination was simply to suspend. The Members again bore in mind that the sample of twenty days' worth of CCTV recordings had shown sixty instances of staff purchasing stolen goods from shoplifters calling at Premier.

Similarly, modifying the conditions of the licence was not possible as the evidence, and in particular the CCTV recordings, had shown a complete disregard for the law by the licence holder and his staff. The operation had been managed in a way that was not merely irresponsible, but also illegal. The findings had shown a lack of professional supervision and control by Mr Kumar as the licence holder, and in short he had demonstrated that he was incapable of upholding the licensing objectives.

After scrutinising all the evidence, the Sub-Committee determined that the purchase and sale of stolen goods was indeed so serious that it

could not be tolerated; in addition, there had been breaches of condition. A determination to revoke and to remove the designated premises supervisor would follow the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003, and was an entirely proportionate sanction given that the premises' style of operation seriously undermined the prevention of crime and disorder objective in Birmingham.

There were no compelling reasons to depart from the Guidance on this occasion. To take some other course (other than revocation and removal of the designated premises supervisor) ran the risk of sending a message that purchasing and reselling stolen goods was not a serious matter, or that there would be no consequences for illegal activities, which the Sub-Committee was not prepared to do. The Sub-Committee therefore resolved to revoke the licence and to remove Anna Urbanowicz as designated premises supervisor.

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 counsel for the licence holder.

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 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.

Meeting ended at 1129 hours.

CHAIR.....

Report to:	Licensing Sub Committee B
Report of:	Assistant Director of Regulation & Enforcement
Date of Meeting:	Tuesday 7th March 2023
Subject:	Licensing Act 2003 Premises Licence – Grant
Premises:	Morrisons Store & Petrol Filling Station, 280 Coventry Road, Bordesley Green, Birmingham, B10 0XA
Ward affected:	Bordesley Green
Contact Officer:	David Kennedy, Principal Licensing Officer, licensing@birmingham.gov.uk

1. Purpose of report:
<p>To consider a representation that has been made in respect of an application for a Premises Licence which seeks to permit the Sale of Alcohol (for consumption off the premises) to operate 24hours (Monday to Sunday).</p> <p>The provision of Late Night Refreshment to operate from 11:00pm until 05:00am (Monday to Sunday).</p> <p>Premises to remain open to the public 24hours (Monday to Sunday).</p>

2. Recommendation:
<p>To consider the representation that has been made and to determine the application, having regard to:</p> <ul style="list-style-type: none"> • The submissions made by all parties • The Statement of Licensing Policy • The Public Sector Equality Duty • The s182 Guidance

3. Brief Summary of Report:
<p>An application for a Premises Licence was received on 23rd November 2022 in respect of Morrisons Store & Petrol Filling Station, 280 Coventry Road, Bordesley Green, Birmingham, B10 0XA.</p> <p>A representation has been received from other persons.</p>

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

5. Relevant background/chronology of key events:

WM Morrison Supermarkets Ltd applied on 23rd November 2022 for the grant of a Premises Licence for Morrisons Store & Petrol Filling Station, 280 Coventry Road, Bordesley Green, Birmingham, B10 0XA.

A representation has been received from other persons, which is attached at Appendix 1.

The application is attached at Appendix 2.

Site Location Plans at Appendix 3.

It should be noted that WM Morrison Supermarkets Ltd currently have a Premises Licence in force for the main supermarket building, Premises Licence Number 1981, which permits the sale of alcohol (for consumption off the premises) to operate 24hours (Monday to Sunday) and the provision of Late Night Refreshment to operate from 11:00pm until 05:00am (Monday to Sunday).

When carrying out its licensing functions, a licensing authority must have regard to Birmingham City Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under s182 of the Licensing Act 2003. The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are:-

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

6. List of background documents:

Copy of the representation as detailed in Appendix 1

Application Form, Appendix 2

Site Location Plans, Appendix 3

7. Options available

To Grant the licence in accordance with the application.

To Reject the application.

To Grant the licence subject to conditions modified to such an extent as considered appropriate.

Exclude from the licence any of the licensable activities to which the application relates.

Refuse to specify a person in the licence as the premises supervisor.

From:

Sent: 10 February 2023 16:52

To: Licensing

Subject: St Andrews Morrisons 24hr application

Re: Morrisons store at St Andrews shopping park has applied for a license to sell alcohol & light night refreshment around the clock.

Good afternoon,

I am writing to express my strong opposition to the application for a 24-hour alcohol license by Morrisons. I am a resident of the local community and I am deeply concerned about the negative impact this license will have on our neighbourhood.

The granting of a 24-hour alcohol license to this shop will increase anti-social behaviour, litter, and noise in the area. These problems will not only affect the quality of life of local residents but also pose a threat to their safety and security.

I urge the council to consider the welfare of the community and the potential consequences of this license before making a decision. The impact of late-night alcohol sales in the area will be far-reaching and long-lasting.

I kindly request that the council reject this application and prevent the further decline of our neighbourhood. Thank you for taking the time to consider my concerns.

Yours sincerely,

* required information

Section 1 of 21

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference This is the unique reference for this application generated by the system.

Your reference You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

☒ Yes ☐ No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

* Family name

* E-mail

Main telephone number

Include country code.

Other telephone number

☐ Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

☒ Applying as a business or organisation, including as a sole trader
☐ Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

Is the applicant's business registered in the UK with Companies House? ☒ Yes ☐ No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name

If the applicant's business is registered, use its registered name.

VAT number

Put "none" if the applicant is not registered for VAT.

Legal status

Continued from previous page...

Applicant's position in the business

Home country

The country where the applicant's headquarters are.

Registered Address

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Agent Details

* First name

* Family name

* E-mail

Main telephone number

Include country code.

Other telephone number

☐ Indicate here if you would prefer not to be contacted by telephone

Are you:

☒ An agent that is a business or organisation, including a sole trader

A sole trader is a business owned by one person without any special legal structure.

☐ A private individual acting as an agent

Agent Business

Is your business registered in the UK with Companies House? ☒ Yes ☐ No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name

If your business is registered, use its registered name.

VAT number

Put "none" if you are not registered for VAT.

Legal status

Continued from previous page...

Your position in the business	<input type="text" value="LICENSING"/>	
Home country	<input type="text" value="United Kingdom"/>	The country where the headquarters of your business is located.
Agent Registered Address		Address registered with Companies House.
Building number or name	<input type="text" value="GOSSCHALKS LLP"/>	
Street	<input type="text" value="61 QUEENS GARDENS"/>	
District	<input type="text"/>	
City or town	<input type="text" value="HULL"/>	
County or administrative area	<input type="text"/>	
Postcode	<input type="text" value="HU1 3DZ"/>	
Country	<input type="text" value="United Kingdom"/>	

Section 2 of 21

PREMISES DETAILS

I/we, as named in section 1, apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in section 2 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003.

Premises Address

Are you able to provide a postal address, OS map reference or description of the premises?

☒ Address ☐ OS map reference ☐ Description

Postal Address Of Premises

Building number or name	<input type="text" value="MORRISONS STORE AND PETROL FILLING STATION"/>
Street	<input type="text" value="280 COVENTRY ROAD"/>
District	<input type="text" value="SMALL HEATH"/>
City or town	<input type="text" value="BIRMINGHAM"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text" value="B10 0XA"/>
Country	<input type="text" value="United Kingdom"/>

Further Details

Telephone number	<input type="text"/>
Non-domestic rateable value of premises (£)	<input type="text" value="1,490,000"/>

Section 3 of 21	
APPLICATION DETAILS	
In what capacity are you applying for the premises licence?	
<input type="checkbox"/> An individual or individuals <input checked="" type="checkbox"/> A limited company / limited liability partnership <input type="checkbox"/> A partnership (other than limited liability) <input type="checkbox"/> An unincorporated association <input type="checkbox"/> Other (for example a statutory corporation) <input type="checkbox"/> A recognised club <input type="checkbox"/> A charity <input type="checkbox"/> The proprietor of an educational establishment <input type="checkbox"/> A health service body <input type="checkbox"/> A person who is registered under part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales <input type="checkbox"/> A person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England <input type="checkbox"/> The chief officer of police of a police force in England and Wales	
Confirm The Following	
<input checked="" type="checkbox"/> I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities <input type="checkbox"/> I am making the application pursuant to a statutory function <input type="checkbox"/> I am making the application pursuant to a function discharged by virtue of Her Majesty's prerogative	
Section 4 of 21	
NON INDIVIDUAL APPLICANTS	
Provide name and registered address of applicant in full. Where appropriate give any registered number. In the case of a partnership or other joint venture (other than a body corporate), give the name and address of each party concerned.	
Non Individual Applicant's Name	
Name	WM MORRISON SUPERMARKETS LIMITED
Details	
Registered number (where applicable)	00358949
Description of applicant (for example partnership, company, unincorporated association etc)	

Continued from previous page...

COMPANY

Address

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Contact Details

E-mail

Telephone number

Other telephone number

* Date of birth / /

* Nationality

[Documents that demonstrate entitlement to work in the UK](#)

Add another applicant

Section 5 of 21

OPERATING SCHEDULE

When do you want the premises licence to start? / /
dd mm yyyy

If you wish the licence to be valid only for a limited period, when do you want it to end / /
dd mm yyyy

Provide a general description of the premises

For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off- supplies you must include a description of where the place will be and its proximity to the premises.

SUPERMARKET WITH PETROL FILLING STATION ON SITE OFFERING THE SALE OF ALCOHOL FOR CONSUMPTION OFF THE PREMISES AND LATE NIGHT REFRESHMENT.

Continued from previous page...

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

Section 6 of 21

PROVISION OF PLAYS

[See guidance on regulated entertainment](#)

Will you be providing plays?

☐ Yes

☒ No

Section 7 of 21

PROVISION OF FILMS

[See guidance on regulated entertainment](#)

Will you be providing films?

☐ Yes

☒ No

Section 8 of 21

PROVISION OF INDOOR SPORTING EVENTS

[See guidance on regulated entertainment](#)

Will you be providing indoor sporting events?

☐ Yes

☒ No

Section 9 of 21

PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

[See guidance on regulated entertainment](#)

Will you be providing boxing or wrestling entertainments?

☐ Yes

☒ No

Section 10 of 21

PROVISION OF LIVE MUSIC

[See guidance on regulated entertainment](#)

Will you be providing live music?

☐ Yes

☒ No

Section 11 of 21

PROVISION OF RECORDED MUSIC

[See guidance on regulated entertainment](#)

Will you be providing recorded music?

☐ Yes

☒ No

Section 12 of 21

PROVISION OF PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will you be providing performances of dance?

Continued from previous page...

Section 13 of 21

PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will you be providing anything similar to live music, recorded music or performances of dance?

☐ Yes

☒ No

Section 14 of 21

LATE NIGHT REFRESHMENT

Will you be providing late night refreshment?

☒ Yes

☐ No

Standard Days And Timings

MONDAY

Start

End

Start

End

Give timings in 24 hour clock.
(e.g., 16:00) and only give details for the days
of the week when you intend the premises
to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Continued from previous page...

Will the provision of late night refreshment take place indoors or outdoors or both?

☐ Indoors ☐ Outdoors ☒ Both

Where taking place in a building or other structure tick as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non-standard timings. Where the premises will be used for the supply of late night refreshments at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Section 15 of 21

SUPPLY OF ALCOHOL

Will you be selling or supplying alcohol?

☒ Yes ☐ No

Standard Days And Timings

MONDAY

Start

End

Give timings in 24 hour clock.
(e.g., 16:00) and only give details for the days
of the week when you intend the premises
to be used for the activity.

Start

End

TUESDAY

Start

End

Start

End

Continued from previous page...

WEDNESDAY

Start 00:00

End 24:00

Start

End

THURSDAY

Start 00:00

End 24:00

Start

End

FRIDAY

Start 00:00

End 24:00

Start

End

SATURDAY

Start 00:00

End 24:00

Start

End

SUNDAY

Start 00:00

End 24:00

Start

End

Will the sale of alcohol be for consumption:

- ☐ On the premises ☒ Off the premises ☐ Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

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

Continued from previous page...

Name

First name

Family name

Date of birth / /
dd mm yyyy

Enter the contact's address

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Personal Licence number
(if known)

Issuing licensing authority
(if known)

PROPOSED DESIGNATED PREMISES SUPERVISOR CONSENT

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

- ☐ Electronically, by the proposed designated premises supervisor
- ☒ As an attachment to this application

Reference number for consent form (if known)

If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'.

Section 16 of 21

ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children

Give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

NONE.

Continued from previous page...

Section 17 of 21

HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Start

End

Give timings in 24 hour clock.
(e.g., 16:00) and only give details for the days
of the week when you intend the premises
to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

--

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

--

Continued from previous page...

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Section 18 of 21

LICENSING OBJECTIVES

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

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

PLEASE SEE ATTACHED CONDITIONS.

--

b) The prevention of crime and disorder

PLEASE SEE ATTACHED CONDITIONS.

--

c) Public safety

PLEASE SEE ATTACHED CONDITIONS.

--

d) The prevention of public nuisance

PLEASE SEE ATTACHED CONDITIONS.

--

e) The protection of children from harm

PLEASE SEE ATTACHED CONDITIONS.

--

Section 19 of 21

NOTES ON DEMONSTRATING ENTITLEMENT TO WORK IN THE UK

Morrisons Store and Petrol Filling Station

280 Coventry Road
Small Heath
Birmingham
B10 0XA

PROPOSED CONDITIONS:

General conditions consistent with operating schedule.

All staff engaged in the sale of alcohol will be trained in accordance with the premises licence holder's training procedures.

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

All staff engaged in the sale of alcohol will receive suitable training (including refresher training) in relation to the proof of age "Challenge 25" scheme to be applied on the premises.

The following forms of identification are acceptable:

photo driving licence,

passport,

(PASS) card and any other locally or nationally approved form of identification.

CCTV to be installed and maintained to the satisfaction of West Midlands Police. The CCTV system to be in full working order at all times when the premises are open for licensable activities except in exceptional circumstances.

The CCTV system shall record and store images for a minimum of 28 days. Images to be made available to West Midlands Police and Local Authority officers upon request.

A refusal log to be maintained at the premises which will be available for inspection by any of the responsible authorities. Staff to record all refusals of sale of alcohol.

An incident book will be implemented at the premises and will be available for inspection by any responsible authority.

Continued from previous page...

Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this in one of two ways: 1) by providing with this application copies or scanned copies of the documents listed below (which do not need to be certified), or 2) by providing their 'share code' to enable the licensing authority to carry out a check using the Home Office online right to work checking service (see below).

Documents which demonstrate entitlement to work in the UK

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

Continued from previous page...

- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relation to the carrying on of a licensable activity.
- A **current** Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 18(3) or 20(2) of the Immigration (European Economic Area) Regulations 2016, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:-
 - evidence of the applicant's own identity – such as a passport,
 - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
 - evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
 - (i) working e.g. employment contract, wage slips, letter from the employer,
 - (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
 - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
 - (iv) self-sufficient e.g. bank statements.

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

Original documents must not be sent to licensing authorities. If the document copied is a passport, a copy of the following pages should be provided:-

- (i) any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

Continued from previous page...

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.

Home Office online right to work checking service

As an alternative to providing a copy of the documents listed above, applicants may demonstrate their right to work by allowing the licensing authority to carry out a check with the Home Office online right to work checking service.

To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in this application their 9-digit share code (provided to them upon accessing the service at <https://www.gov.uk/prove-right-to-work>) which, along with the applicant's date of birth (provided within this application), will allow the licensing authority to carry out the check.

In order to establish the applicant's right to work, the check will need to indicate that the applicant is allowed to work in the United Kingdom and is not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

An online check will not be possible in all circumstances because not all applicants will have an immigration status that can be checked online. The Home Office online right to work checking service sets out what information and/or documentation applicants will need in order to access the service. Applicants who are unable to obtain a share code from the service should submit copy documents as set out above.

Section 20 of 21

NOTES ON REGULATED ENTERTAINMENT

Continued from previous page...

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08:00 and 23:00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08:00 and 23:00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08:00 and 23:00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08:00 and 23:00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
 - o a performance of unamplified live music between 08:00 and 23:00 on any day, on any premises.
 - o a performance of amplified live music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08:00 and 23:00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08:00 and 23:00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o a performance of amplified live music between 08:00 and 23:00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - o any playing of recorded music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o any playing of recorded music between 08:00 and 23:00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o any playing of recorded music between 08:00 and 23:00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

Continued from previous page...

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

Section 21 of 21

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Premises Licence Fees are determined by the non domestic rateable value of the premises.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at <https://www.tax.service.gov.uk/business-rates-find/search>

Band A - No RV to £4300 - £100.00

Band B - £4301 to £33000 - £190.00

Band C - £33001 to £87000 - £315.00

Band D - £87001 to £125000 - £450.00*

Band E - £125001 and over - £635.00*

*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then you are required to pay a higher fee

Band D - £87001 to £125000 - £900.00

Band E - £125001 and over - £1,905.00

There is an exemption from the payment of fees in relation to the provision of regulated entertainment at church halls, chapel halls or premises of a similar nature, village halls, parish or community halls, or other premises of a similar nature. The costs associated with these licences will be met by central Government. If, however, the licence also authorises the use of the premises for the supply of alcohol or the provision of late night refreshment, a fee will be required.

Schools and sixth form colleges are exempt from the fees associated with the authorisation of regulated entertainment where the entertainment is provided by and at the school or college and for the purposes of the school or college.

If you operate a large event you are subject to ADDITIONAL fees based upon the number in attendance at any one time

Capacity 5000-9999 - £1,000.00

Capacity 10000-14999 - £2,000.00

Capacity 15000-19999 - £4,000.00

Capacity 20000-29999 - £8,000.00

Capacity 30000-39999 - £16,000.00

Capacity 40000-49999 - £24,000.00

Capacity 50000-59999 - £32,000.00

Capacity 60000-69999 - £40,000.00

Capacity 70000-79999 - £48,000.00

Capacity 80000-89999 - £56,000.00

Capacity 90000 and over - £64,000.00

* Fee amount (£)

635.00

DECLARATION

Continued from previous page...

[APPLICABLE TO INDIVIDUAL APPLICANTS ONLY, INCLUDING THOSE IN A PARTNERSHIP WHICH IS NOT A LIMITED LIABILITY PARTNERSHIP] I UNDERSTAND I AM NOT ENTITLED TO BE ISSUED WITH A LICENCE IF I DO NOT HAVE THE ENTITLEMENT TO LIVE AND WORK IN THE UK (OR IF I AM SUBJECT TO A CONDITION PREVENTING ME FROM DOING WORK RELATING TO THE CARRYING ON OF A LICENSABLE ACTIVITY) AND THAT MY LICENCE WILL BECOME INVALID IF I CEASE TO BE ENTITLED TO LIVE AND WORK IN THE UK (PLEASE READ GUIDANCE NOTE 15).

THE DPS NAMED IN THIS APPLICATION FORM IS ENTITLED TO WORK IN THE UK (AND IS NOT SUBJECT TO CONDITIONS PREVENTING HIM OR HER FROM DOING WORK RELATING TO A LICENSABLE ACTIVITY) AND I HAVE SEEN A COPY OF HIS OR HER PROOF OF ENTITLEMENT TO WORK, IF APPROPRIATE (PLEASE SEE NOTE 15).

☒ Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name
* Capacity
* Date / /
dd mm yyyy

[Add another signatory](#)

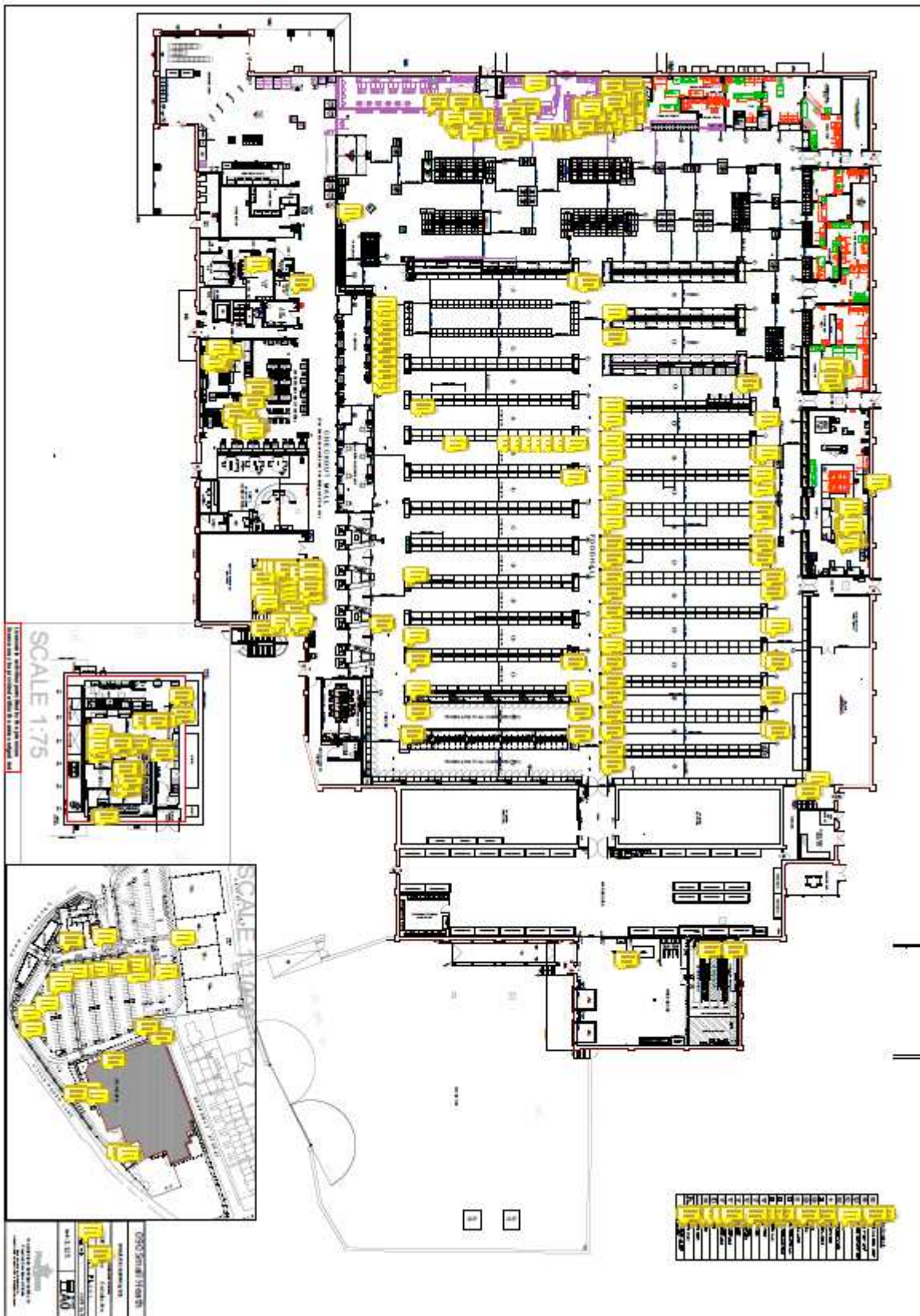
Once you're finished you need to do the following:

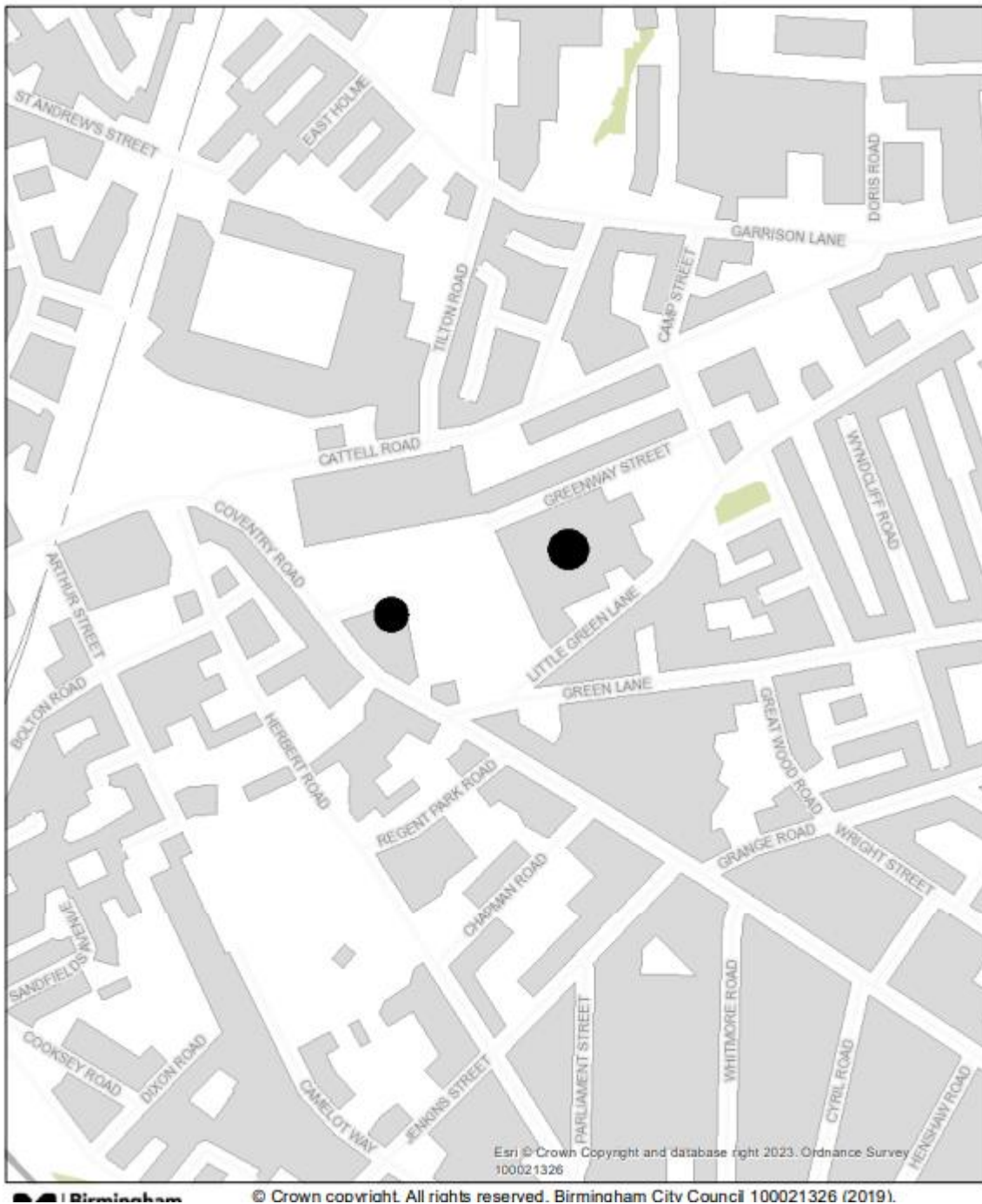
1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/birmingham/apply-1> to upload this file and continue with your application.

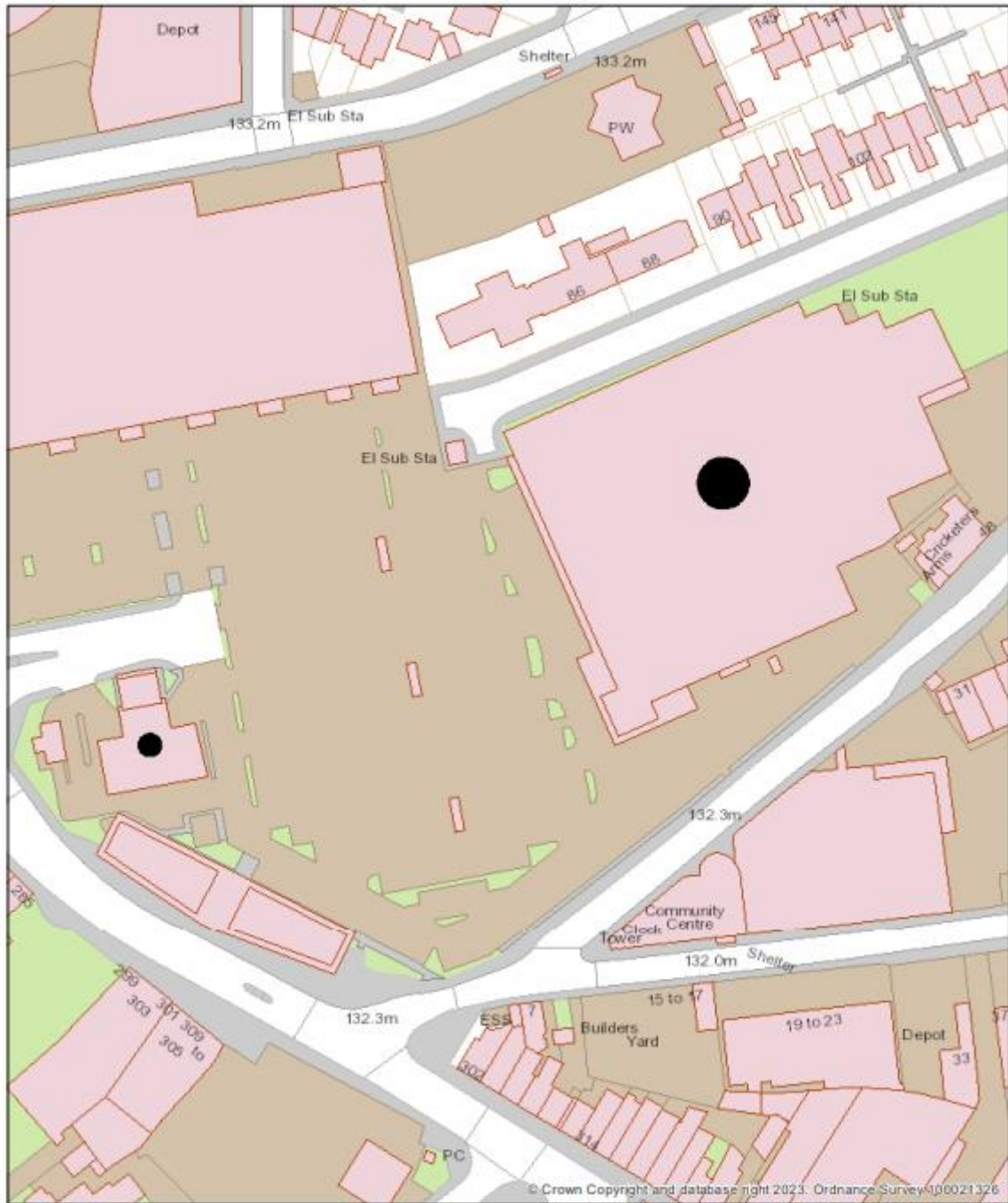
Don't forget to make sure you have all your supporting documentation to hand.


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

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED







 | Birmingham

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From: rjt
Sent: 17 October 2022 10:01
To: licensing
Cc: connie_everson
Subject: Morrisons Store & Petrol Filling Station, 280 Coventry Rd, Small Heath
GTE:00095000002137

Good Morning

I act for Wm Morrison Supermarkets Ltd and I just wanted to advise you that I will be submitting a new licence application for this site shortly.

This is a Morrisons site that has both a main store (which is currently licensed) and a petrol filling station (which is not) on it. Following advice from Philip Kolvin KC (and following what a number of other operators have been doing) I have instructions to make an application for a new licence for the store which incorporates the petrol filling station.

The advice from Mr Kolvin is that in circumstances where the petrol station is on the same site and operates as a satellite to the main store, it is the same premises for the purposes of LA 2003 (same manager, same site, same till system, stock comes from the same place etc) and such an application can be made. I just wanted to forewarn you that the application would be submitted soon and to answer any questions you may have about it.

The effect of the application, if granted, would be to allow alcohol to be displayed and sold within both the store and the petrol filling station.

The new licence application will seek the same times as the existing licence, it will replicate the existing conditions but be accompanied by a plan which shows both the store and petrol filling station on the same site. My instructions are that upon the grant of the new licence, the existing licence which just covers the store will be surrendered.

If you have any problems or queries about this then please let me know.

Kind regards

Richard

Richard Taylor | Partner | Head of Licensing Department
for and on behalf of Gosschalks LLP
Queens Gardens, Kingston Upon Hull, HU1 3DZ

From: rjt
Sent: 20 February 2023 10:20
To:
Cc: licensing
Subject: Morrisons Store and Petrol Filling Station, 280 Coventry Road, Bordesley Green, Birmingham, B10 0XA GTE:00214000005899

Good Morning,

I act for Wm Morrison Supermarkets Limited and am responsible for the application for a new premises licence that covers both the store and the petrol filling station. I am writing to you as you have lodged a representation/objection to this application and in the circumstances, the application will proceed to a hearing before the Licensing Committee.

The purpose of this email is to explain the position as far as Morrisons is concerned.

I note that you object to this store having a 24 hour licence. The store already has a licence that permits it to open and sell alcohol 24 hours a day. The current premises licence also permits late night refreshment between 11pm and 5am.

The purpose of our application is to simply extend the area in which alcohol may be sold to cover the petrol filling station. In all other respects, the licence sought is identical to the existing one.

Yours is the only representation to this application. No other local resident has objected. Furthermore, the Police, Environmental Health, Trading Standards and all of the other responsible authorities have not objected to this application.

The grant of the application will not change the way that the premises trades. A 24 hour licence simply gives Morrisons the flexibility to extend trading at busy times such as the run up to Christmas etc.

I hope that this email addresses your concerns. If it does, and if you feel able to withdraw your representation then please advise the Licensing Authority (who are copied in to this email) accordingly.

If you have any other questions about the application then please do not hesitate to contact me and I will do everything I can to help.

Yours Sincerely,

Richard

Richard Taylor | Partner | Head of Licensing Department

for and on behalf of Gosschalks LLP

Queens Gardens, Kingston Upon Hull, HU1 3DZ