

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A

FRIDAY, 28 APRIL 2023 AT 10:00 HOURS
IN ON-LINE MEETING, MICROSOFT TEAMS

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

A G E N D A

1 NOTICE OF RECORDING/WEBCAST

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

2 DECLARATIONS OF INTERESTS

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

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

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

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

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

3 **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

3 - 24

4 **LICENSING ACT 2003 PREMISES LICENCE – SUMMARY REVIEW
FRANCY, 348 SOHO ROAD, HANDSWORTH, BIRMINGHAM, B21 9QL**

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

5 **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.

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee A
Report of:	Director of Regulation and Enforcement
Date of Meeting:	Friday 28th April 2023
Subject:	Licensing Act 2003 Premises Licence – Summary Review
Premises:	Francy, 348 Soho Road, Handsworth, Birmingham, B21 9QL
Ward affected:	Holyhead
Contact Officer:	Bhapinder Nandhra, Senior Licensing Officer, licensing@birmingham.gov.uk

1. Purpose of report:

A review of the premises licence is required following an application for an expedited review under Section 53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006).

2. Recommendation:

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

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

3. Brief Summary of Report:

An application under Section 53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) was received on 3rd April 2023 in respect of Francy, 348 Soho Road, Handsworth, Birmingham, B21 9QL

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

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

5. Relevant background/chronology of key events:

On 3rd April 2023, Superintendent Twyford, on behalf of West Midlands Police, applied for a review, under Section 53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006), of the Premises Licence granted to Adriana Camelia Pesca in respect of Francy, 348 Soho Road, Handsworth, Birmingham, B21 9QL.

The application was accompanied by the required certificate, see Appendix 1.

Within 48 hours (excluding non-working days) of receipt of an application made under Section 53A, the Licensing Authority is required to consider whether it is appropriate to take interim steps pending determination of the review of the Premises Licence, such a review to be held within 28 days after the day of its receipt, review that Licence and reach a determination on that review.

Licensing Sub-Committee B met on 4th April 2023 to consider whether to take any interim steps and resolved that the licence be suspended and that Adriana Camelia Pesca be removed as the Designated Premises Supervisor (DPS), pending the review of the licence. A copy of the decision is attached at Appendix 2.

The review application was advertised, by the Licensing Authority in accordance with the regulations; the closing date for responsible authorities and other persons ended on 20th April 2023.

A copy of the current Premises Licence is attached at Appendix 3.

Site location plans are attached at Appendix 4.

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

- 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:

Review Application and Certificate from West Midlands Police, Appendix 1
Sub-Committee Interim Steps Meeting decision 4th April 2023, Appendix 2
Current Premises Licence, Appendix 3
Site location plans, Appendix 4

7. Options available:

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

In addition the Sub Committee will need to decide what action, if any, should be taken regarding the interim steps imposed on the 4th April 2023.



PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I - Superintendent David Twyford,

(on behalf of) the chief officer of Police for the West Midlands Police area apply for the review of a premises licence under section 53A of the Licensing Act 2003

1. Premises details: Francy.

Postal address of premises,(or if none or not known, ordinance survey map reference or description):

348, Soho Road, Handsworth.

Post Town: **Birmingham**

Post Code (if known): **B21 9QL.**

2. Premises Licence details:

Name of premise licence holder (if known):

Adriana Pesa

Number of premise licence (if known):

96115.

3. Certificate under section 53A (1)(B) of the Licensing Act 2003 (Please read guidance note 1)

I confirm that this is a certificate has been given by a senior member of the police force for the police area above that in his/her opinion the above premises are associated with serious crime or serious disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

✓

4. Details of association of the above premises with serious crime, serious disorder or both:
(Please read guidance note 2)

Francy is a licensed premises situated at 348, Soho Road, Handsworth, Birmingham. B21 9QL. The premises license holder and designated premises supervisor is Adriana Pesea.

The premises is licensed to sell alcohol for consumption on and off the premises between the hours of 1200 and 2300 each day of the week.

At 0007 hours Sunday 26th March 2023 the premises were open and conducting licensable activity.

A person has entered the premises with a weapons at this time. This is an ongoing live investigation with various live lines of enquiry.

A disorder has occurred whereby the persons entering the premises have attacked customers in the premises using the weapons and the people inside have fought back using bottles and other items as weapons. A number of people have been hit with a weapon and as a result have sustained stab wounds. The premises were conducting licensable activity beyond the time when it was supposed to cease. Alcohol is being served to persons not ancillary to a meal and persons can be seen to be vertically drinking all contrary to the operating conditions of the premises license.

This matter is subject of three crime reports for wounding against section 18 wounding against The Offences Against The Persons Act 1861 which are serious crimes by virtue of the maximum sentence on conviction being life imprisonment. This is an ongoing enquiry which may lead to more reports of injuries.

West Midlands Police have serious concerns for the promotion of the licensing objectives at this premises.

West Midlands Police have no confidence in the management of the premises. CCTV clearly shows that the premises have carried on licensable activity beyond the hour that it should have ceased, alcohol is served which is not ancillary to a meal and vertical drinking can be seen taking place.

The lack of confidence in the management is compounded by the premises licence has been in place for approximately six months and such a serious incident has occurred which would not have done so had the operating conditions of the premises license been followed.

This is such a serious incident and breach of the licensing objectives that West Midlands Police would request that the premises license is suspended and the Designated Premises Supervisor is removed.

Signature of applicant:

Date: 3rd April 2023.

Rank/Capacity: Superintendent

Contact details for matters concerning this application: BW Licensing

Address: Licensing Dept c/o Birmingham West and Central Police Station, Birmingham

Telephone Number(s):

E-mail

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more:or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious Disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder or both.

West Midlands Police

CERTIFICATE UNDER SECTION 53A (1)(B) **OF THE LICENSING ACT 2003**

I Superintendent David Twyford hereby certify that in my opinion the premises described below are associated with both serious crime and serious disorder.

Premises: Francy

Address: 348 Soho Road, Birmingham, B21 9QL

Premise Licence Number: 96115

Premise Licence Holder: Adriana Camelia Pesea

Designated Premise Supervisor: Adriana Camelia Pesea

I am a Superintendent in West Midlands Police.

I am giving this certificate because I am of the opinion that the summary review procedure is necessary to ensure the licensing objectives are promoted expeditiously. Given the seriousness of the trigger incident on 26th March 2023, which involved a disorder at the premises after a male has entered the venue in possession of an offensive weapon and used it to inflict harm on a number of customers within the venue. The inadequacy of measures followed by the operators on the night of the incident which include an apparent breach of the operating hours and operating conditions on the premises licence, in my opinion, immediate steps are required that can best be achieved through the summary review procedures. Other steps available under the Licensing Act 2003, including a standard review application, cannot lead to the imposition of immediately effective steps to promote the licensing objectives and so these are inadequate. I view this application as a proportionate and necessary response to the serious incident at the venue.

In coming to my opinion, I have had regard to the facts of the incident and current investigation, the terms of section 53A of the Licensing Act 2003 and Chapter 12 ("Summary Reviews") of the Guidance issued under section 182 of the Licensing Act 2003 (December 2022 revision).

Signed:

Dated: 3rd April 2023



BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE - B

TUESDAY 4 APRIL 2023

FRANCY, 348 SOHO ROAD, HANDSWORTH, BIRMINGHAM B21 9QL

That having considered the application made and certificate issued by a Superintendent of West Midlands Police under Section 53A of the Licensing Act 2003 for an expedited review of the premises licence held by Adriana Camelia Pessea in respect of Francy, 348 Soho Road, Handsworth, Birmingham B21 9QL, this Sub-Committee hereby determines:

- that the licence be suspended, and
- that Adriana Camelia Pessea be removed as the Designated Premises Supervisor

pending a review of the licence, such a review to be held within 28 days of receiving the Chief Officer of Police's application.

The Sub-Committee's reasons for imposing the two interim steps are due to the concerns which were expressed by West Midlands Police in relation to matters pertaining to serious crime and/or serious disorder, which had come to light as outlined in the Superintendent's certificate and application.

The Sub-Committee determined that the cause of the serious crime and/or serious disorder originated from a style of management which had been incapable of upholding the licensing objectives. The style of management was the responsibility of Adriana Camelia Pessea as premises licence holder of Francy, a restaurant licensed for 'on' sales of alcohol ancillary to the purchase of a meal (licence number 11570). Adriana Camelia Pessea was also the person named on the licence as the designated premises supervisor.

The licence holder attended the meeting accompanied by her adult daughter. The daughter stated that the reason that she had accompanied the licence holder was to "act as interpreter" for the licence holder due to language difficulties.

The meeting was conducted in private session after the Sub-Committee considered an application made by West Midlands Police under regulation 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005. The Police explained that to view the CCTV evidence in public would undermine an ongoing criminal investigation. The Police therefore asked for the Sub-Committee to go into private session for the playing of the CCTV evidence, although the rest of the evidence could be heard in public.

The premises licence holder was asked for her views and stated that she did not mind whether the meeting was conducted in public or in private. However, the Sub-Committee considered that the best course was to hear all of the evidence in private session. This was to ensure fairness to all parties, and to ensure that the licence holder was able to properly

address the Police submissions without the need to avoid mentioning those parts of the evidence shown in private.

The meeting therefore went into private session and Members heard the submissions of West Midlands Police, namely that the certificate, which had been issued by a Superintendent under s53A(1)(b) of the Act, related to an allegation of serious crime and/or serious disorder which was said to have happened at the premises. It was the advice of the Police that a complete absence of management control had led to the incident.

The Police summarised the investigation thus far – exactly as detailed in the Report. It was the advice of the Police that interim steps were required in order to deal with the causes of the serious crime and/or serious disorder. A criminal investigation was under way.

At 00.07 hours on Sunday 26th March 2023, the premises had been open and conducting licensable activities. However, the Police observed that under the terms of the premises licence, the authorised time for licensable activities was only until 23.00 hours; indeed the closing time was 23.30 hours.

At 00.07 hours, a person or persons had entered the premises with a weapon(s). A disorder then ensued inside the premises, in which those who had entered began to attack patrons using their weapons. Patrons then fought back, using bottles and other items as weapons. A number of people were hit with a weapon and as a result sustained lacerations and stab wounds. Police officers who had been in the vicinity were flagged down by concerned passers-by, and attended the scene.

CCTV from inside the premises was played twice to the Sub-Committee. The Police observed that the Francy premises was conducting licensable activities beyond the time when it was supposed to cease. The CCTV showed alcohol being served to persons at a time beyond the terminal hour. Moreover, these sales of alcohol were not ancillary to the service of meals (as required by the licence conditions). Persons could be seen on CCTV to be vertically drinking, contrary to the operating conditions. The Members observed that some patrons were even dancing, suggesting that recorded music was being played, which was a further breach.

The incident had been the subject of three crime reports for wounding, per s18 of the Offences Against The Person Act 1861. The Police reminded the Sub-Committee that such offences are serious crimes which on conviction attract a maximum sentence of life imprisonment. A fourth person had reported a head injury. The incident was an ongoing enquiry, and the Police considered that there could be more reports of injuries.

The Police stated that they had serious concerns regarding the promotion of the licensing objectives at the premises; in particular, they had no confidence in the management of the premises. The CCTV had clearly shown that the licence holder had carried on licensable activity beyond the hour that it should have ceased – drinks were shown being served at 23.14, when alcohol sales were required to end at 23.00. Furthermore, alcohol was being served whilst not ancillary to a meal, and vertical drinking could be seen taking place. The Police took a very dim view of the style of management shown on the night in question.

The Police remarked that their lack of confidence in the Francy management had been compounded by the fact that the premises licence had only been in place for approximately six months, yet such a serious incident had occurred within a short time of the grant of the licence; furthermore, the incident would not have happened had the operating conditions of the premises licence been followed.

Overall, the Police had no confidence whatsoever in the premises' ability to uphold the licensing objectives. It was the Police's recommendation that the incident had been so serious, and the risk to the upholding of the licensing objectives so grave, that the premises licence should be suspended, and the Designated Premises Supervisor removed, to prevent a risk of further serious crime and/or disorder pending the hearing of the summary review in 28 days' time. The Police confirmed that in the meantime they would work with the premises licence holder.

The Sub-Committee then heard from the licence holder, via her adult daughter. The licence holder accepted that she had been in the wrong to permit alcohol sales beyond 23.00; she explained that this had been due to a delay in serving the drinks orders. She confirmed that she did encourage patrons to leave at the closing time of 23.30. Regarding the patrons shown on CCTV to be dancing, she accepted that they had been dancing to recorded music after 23.00, which was not permitted under the premises licence, but observed that this was a cultural practice within the Romanian community, and that "people were just having fun".

Members were concerned that the licence holder was unable to speak English, yet was responsible for upholding the licensing objectives in Birmingham. The daughter confirmed that the licence holder understood English "to a minimal extent".

Members asked if the licence holder had been present for the incident. She stated that she had gone to smoke, and "out of fear she did not go back in". When asked if, at any stage, anyone from the premises had telephoned the Police, she replied that there had been no time to do this, and that "the intruders" (as she called them) had left once the Police arrived. These persons had not been patrons. She also described them as "outsiders".

Whilst accepting that she had been in the wrong for allowing the sale of alcohol after the permitted hour, and apologising for this, the licence holder remarked that it had been the first instance of poor management; she therefore felt that a warning would suffice.

Regarding the violence seen on CCTV, the licence holder's opinion was that this was not connected to her decision to breach the conditions of the licence. Whilst she accepted that she had been in the wrong, she felt that the incident had been caused by the persons who had entered. She repeated that she felt that a warning was the appropriate sanction.

Having heard all of the evidence, the Members were not confident that Adriana Camelia Pesea understood her responsibilities as either licence holder or designated premises supervisor; nor was she taking proper management control of the premises. It rather appeared that those at the premises had little intention of upholding the licensing objectives – the trading "after hours" had demonstrated this.

The Sub-Committee agreed with the Police that it was not possible to have any trust in the management of the operation, and in particular agreed that the incident would not have happened at all if the premises had been observing the conditions of the licence. The Members looked askance at the licence holder's suggestion that the violence had not been connected with the breaches of condition; it was obvious that the decision to trade after the terminal hour had been the cause.

In deliberating, the Sub-Committee determined that there had been an allegation of serious crime and/or serious disorder, which was being investigated by Police. It was abundantly clear that the operation was not being run in accordance with the licensing objectives – even leaving aside the serious crime incident of the wounding/ grievous bodily harm offences, the Sub-Committee looked askance at the breaches of the conditions of the licence (trading beyond permitted hours, selling alcohol beyond the permitted time and not

ancillary to meals, and offering regulated entertainment), all of which were serious matters. Regarding the sale of alcohol, the Members observed that the CCTV had shown that there was no sign of any food service whatsoever. It therefore appeared that the sale of alcohol had definitely not been 'ancillary to meals'.

The Sub-Committee was also appalled that a weapon(s) had been brought into any restaurant at a time when the premises should have been closed to customers with nobody able to enter. This was not at all the standard expected of premises licence holders in Birmingham. The Police had only been alerted by passers-by, who brought the disorder to the attention of officers in the area; nobody from the premises had telephoned the Police.

The licence holder's language difficulties were also a worry to the Sub-Committee; in these circumstances any capable licence holder should have been aware that the responsible course was to employ suitable persons, capable of speaking English, to manage the premises for her, and not take on the role herself.

All in all, it had been a very serious and dangerous incident, and the licence holder's style of operation was a clear risk to the safety of the public in Birmingham. The Sub-Committee noted that the Police had advised that they had no confidence that the operation could uphold the licensing objectives, and that a criminal investigation was ongoing. They had recommended that the Sub-Committee ought to impose two interim steps – to suspend the licence and remove the Designated Premises Supervisor, pending the full Review hearing.

The Sub-Committee found the Police recommendation to be the proper course, and determined that it was both necessary and reasonable to impose the interim step of suspension of the licence to address the immediate problems with the premises, namely the potential for further serious crime and/or serious disorder.

The Sub-Committee also determined that the removal of the designated premises supervisor, as recommended by the Police, was also a very important safety feature, given that it was this individual who was responsible for the day to day running of the premises.

The Sub-Committee did consider whether it could impose alternative interim steps, but considered that this would offer little to address the real issue, which was the management failings which had led to an allegation of serious crime and/or serious disorder; these failings were a significant risk to the upholding of the licensing objectives in Birmingham. Public safety was of paramount importance.

In reaching this decision, the Sub-Committee has given due consideration to the application made and certificate issued by a Superintendent of West Midlands Police, the City Council's Statement of Licensing Policy, the Guidance issued by the Home Office under s182 of the Act, the written submissions made, and the submissions made at the hearing by West Midlands Police, and by the licence holder via her adult daughter acting as interpreter.

All parties are advised that the premises licence holder may make representations against the interim steps taken by the Licensing Authority. On receipt of such representations, the Licensing Authority must hold a hearing within 48 hours.

All parties are advised that there is no right of appeal to a Magistrates' Court against the Licensing Authority's decision at this stage.

Licensing Act 2003Premises Licence

Premises Licence Number	96115
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Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description Francy, 348 Soho Road, Birmingham, B21 9QL
Telephone Number N/A

Where the licence is time limited the dates N/A

Licensable activities authorised by the licence Sale of Alcohol by Retail

Times the licence authorises the carrying out of licensable activities**Sale of Alcohol by retail:**

<u>Day</u>	<u>Start Time</u>	<u>End Time</u>
Monday	12:00	23:00
Tuesday	12:00	23:00
Wednesday	12:00	23:00
Thursday	12:00	23:00
Friday	12:00	23:00
Saturday	12:00	23:00
Sunday	12:00	23:00

Place:**Seasonal Variations:****Non-Standard Times:****The opening hours of the premises**

<u>Day</u>	<u>Start Time</u>	<u>End Time</u>
Monday	12:00	23:30
Tuesday	12:00	23:30
Wednesday	12:00	23:30
Thursday	12:00	23:30
Friday	12:00	23:30
Saturday	12:00	23:30
Sunday	12:00	23:30

Seasonal Variations:**Non-Standard Times:****Where the licence authorises supplies of alcohol whether these are on and /or off supplies**

For consumption on the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Ms Adriana Camelia Pessea

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

N/A

Name and address of designated premises supervisor where the premises licence authorises the supply of alcohol

Mrs Adriana Pessea

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

Licence Number: 11570

Issuing Authority: Birmingham City Council

Dated 06-10-2022

Bhapinder Nandhra
Senior Licensing Officer

For Director of Regulation & Enforcement

Annex 1 – Mandatory Conditions

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

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

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

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

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

The responsible person must ensure that —

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures —

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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

supply of alcohol under such a licence;(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.(3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.(4) Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the Operating Schedule

A Challenge 25 policy will be strictly followed by all staff. Staffs are trained as appropriate in respect of relevant licensing law. The open nature of the cafe allows for good viewing coverage. CCTV is installed covering the premises, recording will be kept for 31 days.

CCTV will be recording at all times the premises are open for any licensable activities and images will be held for a minimum of 31 days and made available immediately on request by any of the Responsible Authorities. The Premises License Holder will ensure that a trained member of staff will be on duty and be available to download the CCTV to any of the Responsible Authorities. The Designated Premises Supervisor and their staff will at all times remain aware of their responsibilities for the prevention of crime and disorder on the premises and demonstrate a responsible attitude to the marketing and sale of alcohol. Any person who appears drunk /aggressive will not be permitted on the premises. If for any reason the CCTV hard drive needs to be replaced the previous / old hard drive will be kept on site for a minimum of 31 days and made immediately available to any of the responsible authorities on request. The CCTV system will be checked prior to licensable activity taking place each day and the identity of the person checking the system will be recorded. All staff other than personal license holders will receive training in the Licencing Act 2003, and the Licencing objectives. No staff will work at the premises until this training has been completed and the required refreshments have been completed. Refresher training should take place every 6 months. An Incident Book will be maintained at the premises and made available to any of the appropriate authorities on request. A Refusals Book will be maintained at the premises and all refusals to serve alcohol will be recorded in this book. It will be made available to any of the appropriate authorities on request. The company will operate the Challenge 25 Policy. The only acceptable forms of identification will be a passport, photo driving license, military id card or PASS id card with the hologram logo.

The sale of alcohol is ancillary to the purchase of a meal. There will be no vertical drinking within the premises.

All deliveries will be received during daytime prior to 6pm to control noise nuisance. In conjunction with the steps proposed for the prevention of crime and disorder objectives, the Licensees and staff will at all times remain responsible for the prevention of public nuisance in and around the premises. The Designated Premises Supervisor will arrange to monitor levels from both inside and outside the premises and remedial action will be taken as appropriate. Doors and windows will be kept closed as deemed necessary by the Designated Premises Supervisor.

A fire alarm system will be installed to meet BS 5839 Part 1 current standards. An emergency lighting system will be installed to meet BS 5266 current standards. Firefighting equipment will be available in the premises to meet BS 5306 current standards. Floor staff will conduct physical sweep inside the premises to remove hazardous objects/waste as deemed necessary by the management. The Designated Premises Supervisor is aware of his responsibilities to the staff and customers in respect of public safety and will take all reasonable steps to ensure the maintenance of all provided safety arrangements and equipment in accordance with the requirements of current installations.

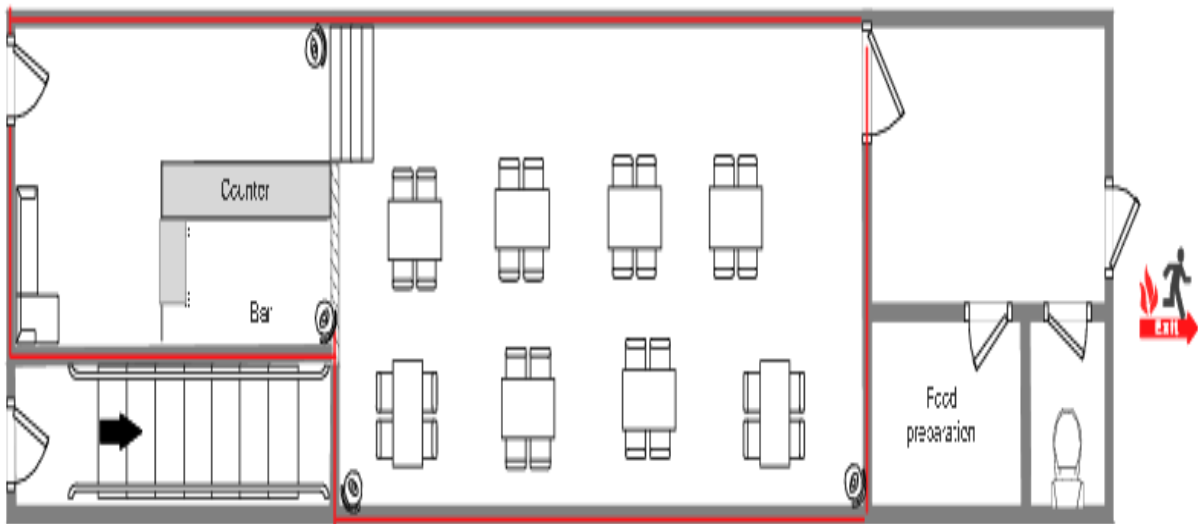
We recognise the importance of protecting children from harm and this is supported by our commitment to health and safety in the operation and maintenance of the premises and also our approach to managing the risk of under age drinking. The Designated Premises Supervisor and staff will at all times remain aware of their responsibilities under the objective, including that alcohol shall not be sold to anyone under the age of 18. Staff on duty will be trained and made aware of a challenge 25 policy and the requirements and the need to demand an acceptable form of age id. No adult entertainment is permitted at these premises.

Annex 3 – Conditions attached after a hearing by the Licensing Authority

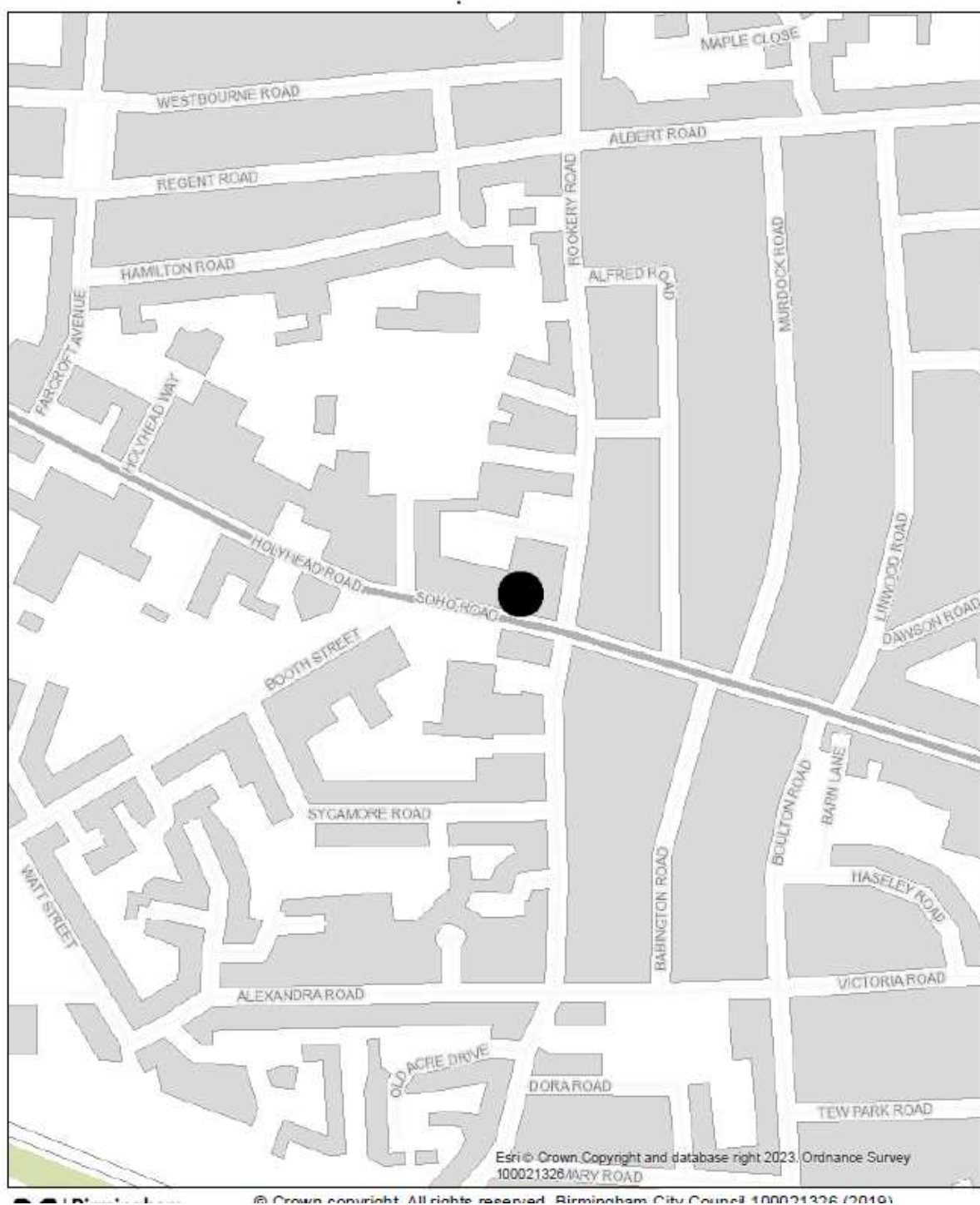
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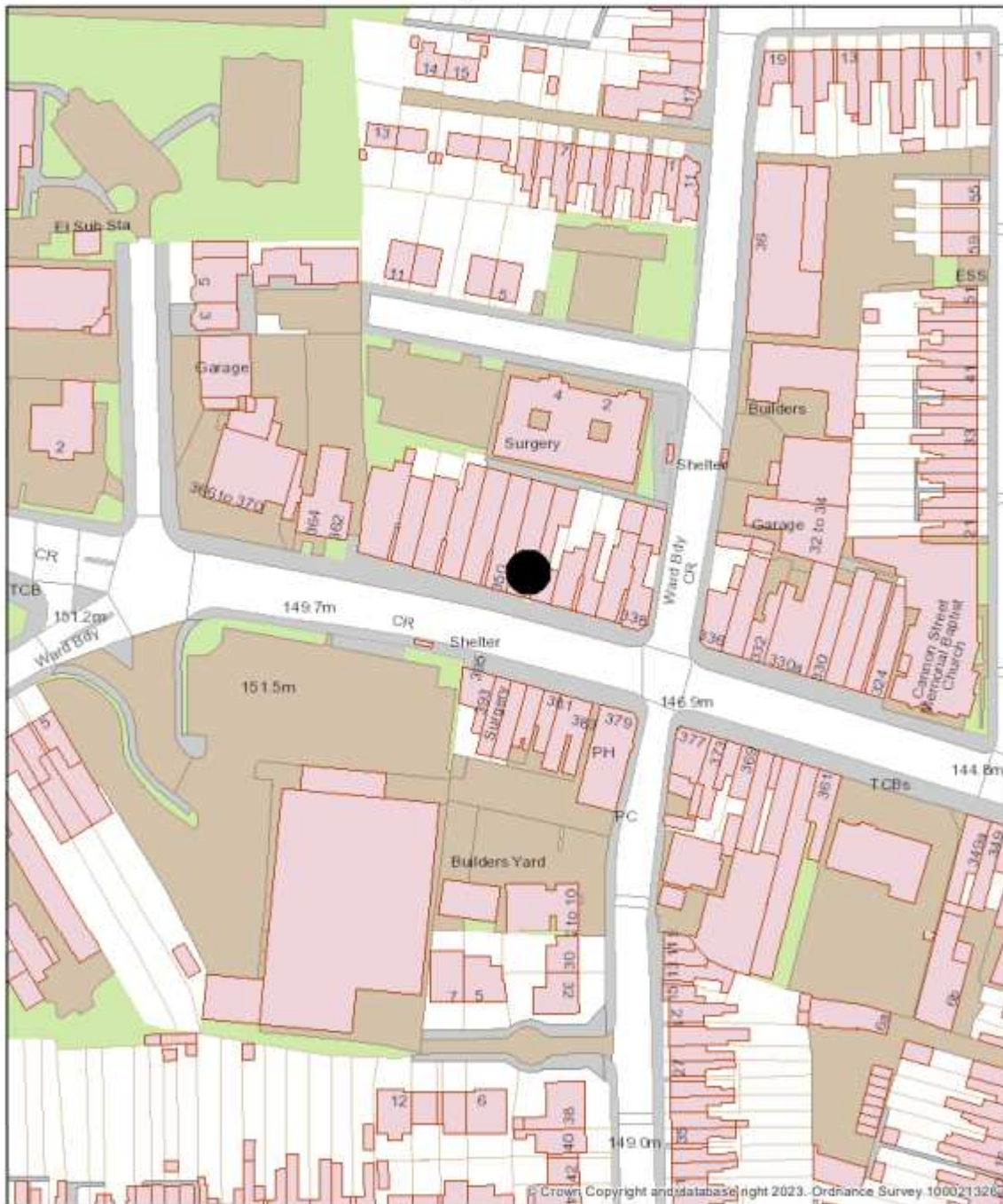
Annex 4 – Plans

Plan Reference; - 96115 as attached.



Key:		Scale 1" = 1' at:	1 100 @ A4
Licensable Area		Premises Details:	
CCTV			
Client		Date:	
Adriano Cornelio Pessoa		July 2022	
		By	
		Major Rahman	





The designated premises supervisor for the premises shall be removed and replaced

When the premises is trading at least one of the members of staff on duty will be first aid trained and the licence holder will have available for use a working bleed kit whenever licensable activities are carried on from the premises.

The premises will operate a vulnerability policy. This policy will be available to any of the responsible authorities on request.

The premises will operate a dispersal policy. This policy will be made available to any of the responsible authorities on request.

The doors to the premises will be locked to the outside and customers will only be allowed access to the premises after speaking with staff at the premises via an intercom and then passing through a staff-controlled door. The area around the front door will be covered by the premises CCTV system.

All drinks supplied will be decanted into glasses. No bottles or other containers will be in the customer area of the premises.

The premises will only re-open when all the measures are in place.

OFFICIAL – (when complete)

MG11

WITNESS STATEMENT**Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B****Crime No.****uest****URN**

Statement of Mark Swallow

Age if under 18 Over 18 (if over 18 insert "over 18")

Occupation Police Licensing Officer 60264.

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

Signature: M.SWALLOW. (witness)**Date 26.04.23.**Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

I am Licensing Officer 60264 Mark Swallow of the West Midlands Police Force currently stationed at Lloyd House Police Station.

I am part of a team that deals with all matters relating to liquor licensing in the area covered by Birmingham City Council.

Francy is a licensed premises situated at 348, Soho Road, Handsworth, Birmingham. B21 9QL. The premises license holder and designated premises supervisor is Adriana Pessea.

The premises is licensed to sell alcohol for consumption on and off the premises between the hours of 1200 and 2300 each day of the week. At 0007 hours Sunday 26th March 2023 two persons have entered the premises one with weapons. A disorder has occurred whereby the person entering the premises with the weapons has attacked customers in the premises using the weapons and the people inside have fought back using other items as weapons. A number of people have been hit with a weapon and as a result have sustained injuries.

The premises were conducting licensable activity beyond the time when it was supposed to cease. Alcohol is being served to persons not ancillary to a meal and persons can be seen to be vertically drinking all contrary to the operating conditions of the premises license. Persons can be seen dancing and it has been admitted that music was being played.

This matter is subject of three crime reports for wounding against section 18 wounding against The

Signature

Signature witnessed by

03/2016

OFFICIAL – (when complete)

Page 2 of 2

Crime No.

uest

URN

Statement of Mark Swallow

Offences Against The Persons Act 1861 which are serious crimes by virtue of the maximum sentence on conviction being life imprisonment. This is an ongoing enquiry.

At 0007 hours Sunday 26th March 2023 the premises were open and conducting licensable activity.

The CCTV from the premises has been viewed and supports the account that the premises were open and conducting licensable activity beyond the terminal time for this. This was also confirmed by the premises license holder at the interim hearing held previously. This offence has been aggravated by the use of weapons and has been committed by persons in the premises which is carrying out licensable activity beyond the terminal time for this. CCTV was shown in the interim hearing exhibit number reference number MS1. The interim hearing was held on Tuesday 4th April 2023 and as a result the premises license was suspended and the Designated Premises Supervisor was removed.

West Midlands Police have since worked extensively with the premises license holder and an agreed position has been reached. This is a set of measures exhibit number reference number MS2 that are designed to ensure that the licensing objectives are promoted and that such an incident could not occur again. It is believed that the measures to replace the interim steps would be the most proportionate and effective means to achieve this. I would request that consideration be given to the adoption of these measures. I now produce exhibit numbers reference numbers MS1 and 2 as evidence.

As this is a live and ongoing enquiry with persons still outstanding and weapons to be recovered I would request that this statement and the hearing be conducted in private.M.SWALLOW.

Signature Signature witnessed by

03/2016