

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE B

TUESDAY, 24 NOVEMBER 2020 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**

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

2 **DECLARATIONS OF INTERESTS**

Members are reminded that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

3 **APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

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4 **LICENSING ACT 2003 PREMISES LICENCE – GRANT FOODSTARS, 31 – 32 MANCHESTER STREET, BIRMINGHAM, B6 4HL**

Report of the Interim Assistant 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 Chairman are matters of urgency.

BIRMINGHAM CITY COUNCIL**PUBLIC REPORT**

Report to:	Licensing Sub Committee B
Report of:	Interim Assistant Director of Regulation & Enforcement
Date of Meeting:	Tuesday 24th November 2020
Subject:	Licensing Act 2003 Premises Licence – Grant
Premises:	Foodstars, 31 – 32 Manchester Street, Birmingham, B6 4HL
Ward affected:	Newtown
Contact Officer:	David Kennedy, Principal Licensing Officer, licensing@birmingham.gov.uk

1. Purpose of report:

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 only) to operate from 11:00am until 11:00pm (Monday to Sunday).

To permit the provision of Late Night Refreshment, to operate outdoors only, from 11:00pm until 2:00am (Monday to Sunday).

Due to the nature of the application the public will not have access to the premises.

2. Recommendation:

To consider the representation that has been made and to determine the application.

3. Brief Summary of Report:

An application for a Premises Licence was received on 6th October 2020 in respect of Foodstars, 31 – 32 Manchester Street, Birmingham, B6 4HL.

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

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

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

5. Relevant background/chronology of key events:

Foodstars BH Ltd applied on 6th October 2020 for the grant of a Premises Licence for Foodstars, 31 – 32 Manchester Street, Birmingham, B6 4HL.

A representation has been received from West Midlands Police as a responsible authority. See Appendix 1.

The application is attached at Appendix 2.

Site Location Plans at Appendix 3.

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: Abdool Rohomon
Sent: 27 October 2020 11:04
To: Licensing
Cc: Craig Baylis
Subject: Premise licence application - Foodstars 31-32 Manchester Street

Dear Licensing

West Midlands Police licensing team have received the application for a new premise licence for the above location. We are aware that this is not the first time this application has been lodged, as West Midlands Police objected to the first application (the alcohol element of the application) on the basis around the control element of the alcohol sales and what little offences the premises would be liable to if they sold alcohol that ended up in the hands of drunk persons, underage persons.

On the first application West Midlands Police offered two conditions to the premises as a means to address the control elements, neither of these conditions – which related to delivery staff being direct employees of the premise licence holder or there being a time delay from the placement of the order to the delivery, where accepted by the premises.

The application for the alcohol element was refused by the licensing subcommittee and noted that they thought the conditions a sensible solution to address the control issues, in their decision notice.

I have spoken to the applicants solicitor and asked what has changed for this application, to which he has stated nothing and that the law was not explained properly. I have also offered the same conditions as offered before and commented on in the decision notice, but I have received a reply saying they will not accept the conditions.

As per the first application (which was made by the same applicant) West Midlands Police have the same concerns. These are stated as thus –

The company proposes to convert the current warehouse premises into 20 individual kitchens that will prepare food and supply food and alcohol between the hours of 1100 hours and 0200 hours each day.

The company and the individual kitchens will partner Deliveroo, Uber Eats and Just Eat. These companies will take the orders for food and alcohol via food apps, pass them on to the kitchens who will supply the companies with the order for delivery to the customer. To achieve the licensing objectives Foodstars proposes to rely on the terms and conditions that the three delivery companies offer. They are not proposing to do any deliveries on their own

As alcohol is a key factor in numerous crimes away from licensed premises the control of its supply has to be fundamentally robust. I have given due consideration to this business arrangement and I am not satisfied that this provides sufficient protections that alcohol will not be supplied to either children and young persons or people that are drunk.

The concern is around the delivery of the alcohol and the fact that a third party delivery company would not be liable to any offences under the licensing act.

There are 3 offences under the Licensing act which look at this matter but we argue would not be committed by a third party company

Section 141 – sale of alcohol to a person who is drunk

- This only relates to sales on those premises, as the goods will be delivered and the sale has already taken place, there is no offence if the driver delivered to a drunk person and no come back

Section 146 – sale of alcohol to a child.

- A sale is defined at the point the goods are appropriated for the contract, in effect this means when the goods are taken from the shelf at the premises, it is not at the point of cash transaction. So when the premises took the goods of the shelf and handed or bagged it for

delivery the sale is made. This wouldn't be to the person who had ordered it as they would be handed to the delivery driver

- The delivery driver when delivering the alcohol would not be selling it so this offence is not made out and the driver has no come back

Section 151 – delivering alcohol to children

- This offence is only committed by an employee of the premises, as a third party contractor the driver is not an employee of the company

This is an argument we have expressed before to BCC licensing committees and one that was upheld by the committee who expressed concerns around the lack of control and accountability for the alcohol.

Any alcohol that is supplied will be appropriated when the kitchens hand it over to the delivery company. The kitchens will have no interaction with the ultimate customers, either at point of ordering or supply. The food delivery companies personnel who take the order and supply the goods will be different.

In the previous licensing hearing the applicant stated that they would give the alcohol to the retrospective kitchen – dependent on what was ordered. If this is the case that would then put in another layer of defence to the premise licence holder as at the time they sold the alcohol, appropriate the goods for the purpose of the contract, then it is likely not to be to a kitchen that is operating with drunk people or underage staff

As these companies work on a basis of whoever is nearest can bid for jobs the premises have no knowledge of who will turn up, if they have had any training, had any idea of what this training is and whether it meets the premise licence holders requirement, and so would be unable to ensure that the licensing objectives can be promoted effectively

To remove the concerns and achieve the licensing objectives I have proposed to Foodstars that a condition be added to the license that either the products were delivered by staff employed by the company or that if delivery app companies were to be used then the delivery takes place at least twenty four hours after the order was placed. This has been communicated to and explained to the company, however, it is not acceptable to them.

The reason for this condition is it removes the immediate threat of people who have already consumed alcohol or kids at home with access to bank cards just thinking they could order some food, or just alcohol and get it delivered straight away, there would have to be a delay. If the premises delivered themselves then there is more accountability and so this condition wouldn't apply to them.

The lateness in the hours of operation increase the risk around drunkenness and children.

I would therefore wish to raise an objection to the application based on the grounds of:

The prevention of crime and disorder,
The protection of children,
The prevention of public nuisance.

Kind regards

Abs Rohomon. BEM

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



Birmingham
Application for a premises licence
Licensing Act 2003

For help contact
licensingonline@birmingham.gov.uk
 Telephone: 0121 303 9896

* 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

VAT number

Legal status

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

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

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.

Is your business registered outside the UK? ☐ Yes ☒ No

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

Home country

The country where the headquarters of your business is located.

Agent Business Address

If you have one, this should be your official address - that is an address required of you by law for receiving communications.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

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

Street

District

City or town

County or administrative area

Postcode

Country

Further Details

Telephone number

Non-domestic rateable value of premises (£)

Section 3 of 21	
APPLICATION DETAILS	
<p>In what capacity are you applying for the premises licence?</p> <p> <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 </p> <p>Confirm The Following</p> <p> <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 </p>	
Section 4 of 21	
NON INDIVIDUAL APPLICANTS	
<p>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.</p> <p>Non Individual Applicant's Name</p> <p> Name Food Stars BH Ltd </p> <p>Details</p> <p> Registered number (where applicable) 09840743 </p> <p>Description of applicant (for example partnership, company, unincorporated association etc)</p>	

Continued from previous page...

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

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.

Commercial kitchen provider, renting out commercial kitchens in the building to members who are restaurateurs, for the use of preparing food and drink to be ordered by the consumer online, picked up and delivered by food delivery companies (such as Deliveroo, UberEats, Just Eat), and to be consumed off the premises. The premise is a former manufacturing warehouse, located in an industrial area, just on the outskirts of the city centre. This premise is not open to the public.

Continued from previous page...
There are 40 kitchens in total in the building, with 20 kitchens located on the ground floor, and 20 kitchens located on the first floor.
If 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend
<div style="border: 1px solid black; width: 100px; height: 20px; margin-left: 200px;"></div>
Section 6 of 21
PROVISION OF PLAYS
See guidance on regulated entertainment
Will you be providing plays?
<input type="radio"/> Yes <input checked="" type="radio"/> No
Section 7 of 21
PROVISION OF FILMS
See guidance on regulated entertainment
Will you be providing films?
<input type="radio"/> Yes <input checked="" type="radio"/> No
Section 8 of 21
PROVISION OF INDOOR SPORTING EVENTS
See guidance on regulated entertainment
Will you be providing indoor sporting events?
<input type="radio"/> Yes <input checked="" type="radio"/> No
Section 9 of 21
PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS
See guidance on regulated entertainment
Will you be providing boxing or wrestling entertainments?
<input type="radio"/> Yes <input checked="" type="radio"/> No
Section 10 of 21
PROVISION OF LIVE MUSIC
See guidance on regulated entertainment
Will you be providing live music?
<input type="radio"/> Yes <input checked="" type="radio"/> No
Section 11 of 21
PROVISION OF RECORDED MUSIC
See guidance on regulated entertainment
Will you be providing recorded music?
<input type="radio"/> Yes <input checked="" type="radio"/> No
Section 12 of 21
PROVISION OF PERFORMANCES OF DANCE
See guidance on regulated entertainment

Continued from previous page...

Will you be providing performances of dance?

☐ Yes

☒ No

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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

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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.

Late night refreshment for delivery only to customer's home address

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.

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SUPPLY OF ALCOHOL

Will you be selling or supplying alcohol?

☒ Yes

☐ No

Standard Days And Timings

MONDAY

Start

End

Start

End

TUESDAY

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.

Continued from previous page...

WEDNESDAY

Start 11:00

End 23:00

Start

End

THURSDAY

Start 11:00

End 23:00

Start

End

FRIDAY

Start 11:00

End 23:00

Start

End

SATURDAY

Start 11:00

End 23:00

Start

End

SUNDAY

Start 11:00

End 23:00

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

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'.

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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.

THE PREMISES ARE NEVER OPEN TO THE PUBLIC

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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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.

See attached schedule

b) The prevention of crime and disorder

See attached schedule

c) Public safety

See attached schedule

d) The prevention of public nuisance

See attached schedule

e) The protection of children from harm

See attached schedule

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NOTES ON DEMONSTRATING ENTITLEMENT TO WORK IN THE UK

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 or 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 (£)

315.00

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

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.

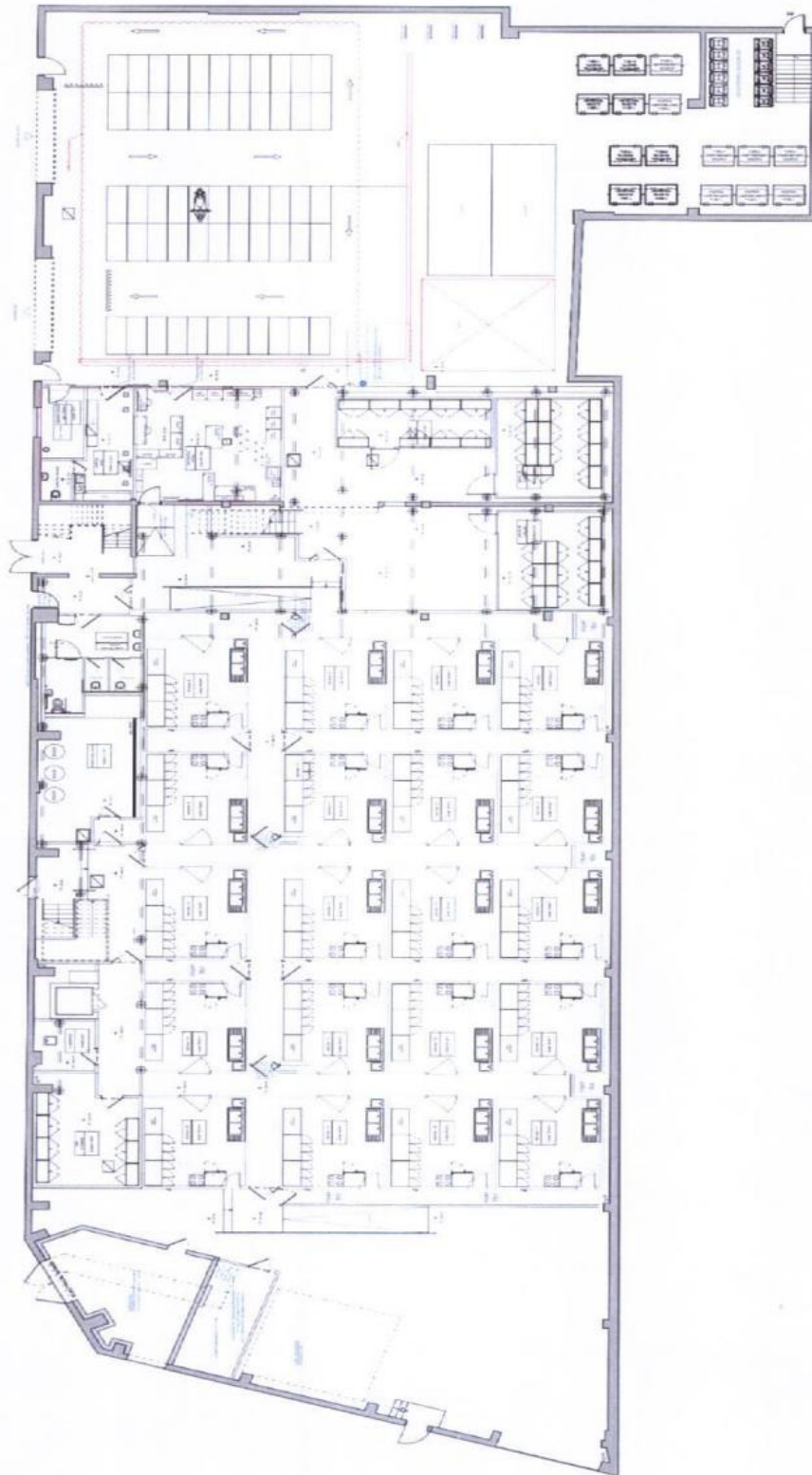
Don't forget to make sure you have all your supporting documentation to hand.

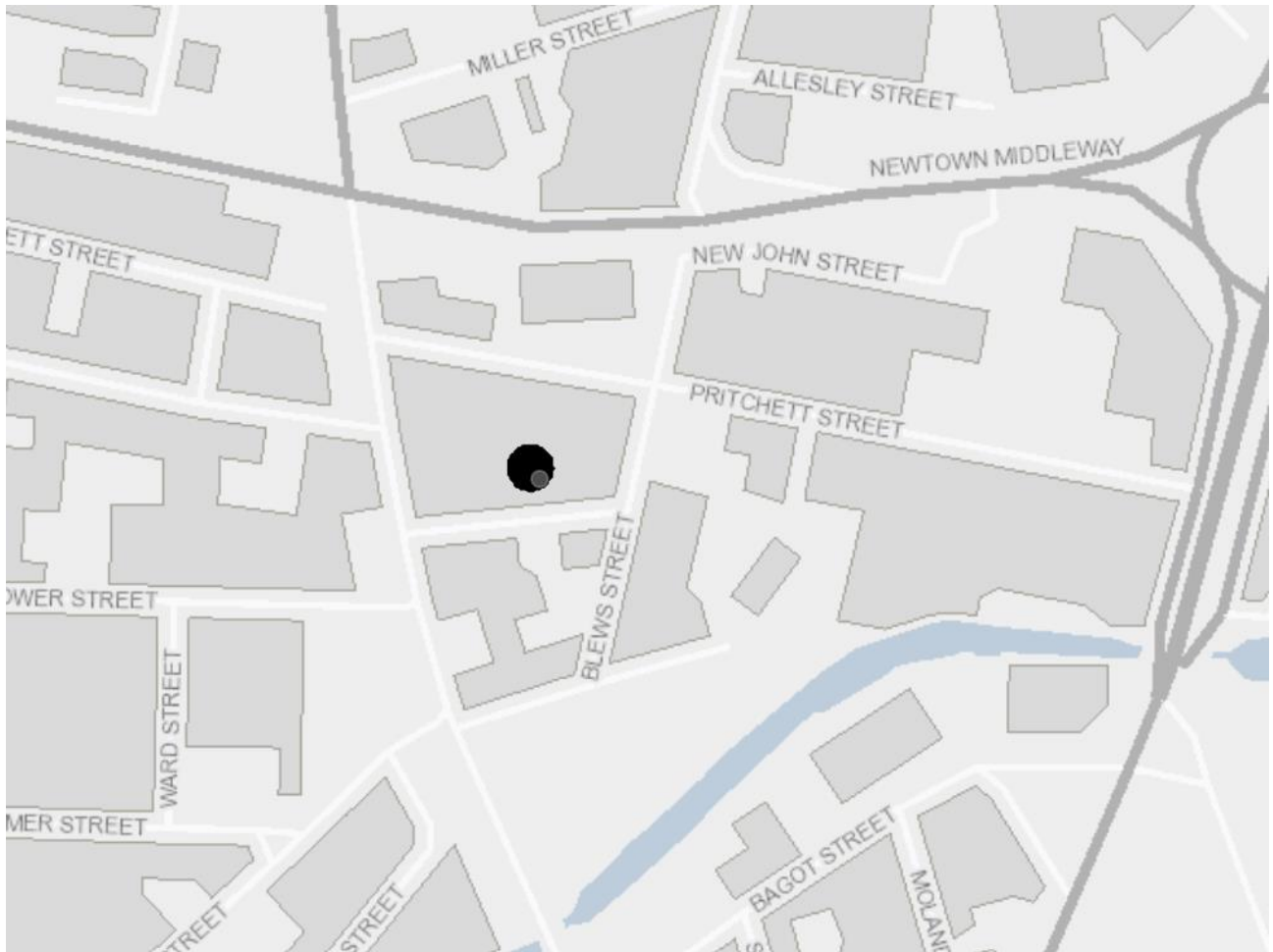
IT IS AN OFFENCE LIABLE TO SUMMARY CONVICTION TO A FINE OF ANY AMOUNT UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

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

Schedule of Conditions

1. CCTV recordings will be kept for 31 days.
2. All refusals will be noted in a refusal register, which will be maintained at the premises and must be available for inspection by any of the responsible authorities. The register must be signed by the DPS monthly.
3. The Premises Licence Holder shall ensure that those engaged with the sale of alcohol, including all persons renting space in the premises, shall be provided with training on the licensing objectives and the conditions attached to this premises licence.
4. No business will be allowed to supply alcohol until such training has been given.
5. Refresher training will be given every 6 months.
6. A log of the training shall be maintained and available for inspection by an authorised Officer of a Responsible Authority on request.
7. The Premises Licence Holder will maintain an incident register which will be kept at the premises and be made available to any authorised Officer of a Responsible Authority on request.
8. When the DPS is not on the premises there will be a signed record of the duty manager at all times.
9. The Premises will not be open to the public.
10. No member of the public shall be allowed on the Premises for the purposes of selecting or purchasing alcohol.
11. Any alcohol purchased shall only be collected from the Premises by couriers or employees authorised by the Premises Licence holder.
12. The premises will only use a courier service with a written agreement which includes an enhanced delivery service that incorporates a challenge 25 policy and records proof of age checks. Passport or driving licence will be the only forms of ID accepted by the courier & refusals of sales will also be recorded and available for inspection on request of an authorised officer.
13. A copy of the written age verification policy for each courier is to be available at the premises.







From: Craig Baylis

Sent: 20 November 2020 12:06

To: Bhapinder Nandhra

Cc: Abdool Rohomon

Subject: Licensing Act 2003 (Grant) RE: Foodstars, 31-32 Manchester Street, Aston, Birmingham, B6 4HL

Legal submission on behalf of the applicant

1. The Police submissions and reasons for their objections in relation to delivery have been seen and noted.
2. Our submission is that the Police objection is wrong as a matter of law and despite their best intentions cannot be permitted as a lawful interpretation of the provisions of Section 151 Licensing Act 2003 in relation to delivery of alcohol and in particular their concerns regarding that delivery to children.
3. The starting point is the Police submission that they would be content with the application if a condition were to be added to the licence to allow delivery of alcohol **only** in circumstances where the products are delivered by staff directly employed by the company, or alternatively if delivery were to be delayed for 24 hours if a 3rd party delivery company were to be used to deliver the alcohol. In other words, they seek to have deliveries of alcohol constrained in certain circumstances in connection with deliveries received by under 18's.
4. The concern of the Police relates to potential delivery of alcohol directly to children under the age of 18.
5. The relevant legislation is set out at section 151 of the Act which creates the offence of delivering alcohol to children. Section 151 says

151 Delivering alcohol to children

(1) A person who works on relevant premises in any capacity, whether paid or unpaid, commits an offence if he knowingly delivers to an individual aged under 18—

- (a) alcohol sold on the premises, or
- (b) alcohol supplied on the premises by or on behalf of a club to or to the order of a member of the club.

(2) A person to whom subsection (3) applies commits an offence if he knowingly allows anybody else to deliver to an individual aged under 18 alcohol sold on relevant premises.

(3) This subsection applies to a person who works on the premises in a capacity, whether paid or unpaid, which authorises him to prevent the delivery of the alcohol.

6. Ostensibly therefore an offence might be committed by the premises licence holder or a person employed by the holder if they knowingly permitted deliveries to take place to children.

7. However Section 151(6) provides a number of exceptions to the commission of a potential offence under subsection 1. Section 151(6) provides (my emphasis in bold)

(6) Subsections (1), (2) and (4) do not apply where—

(a) the alcohol is delivered at a place where the buyer or, as the case may be, person supplied lives or works, or

(b) the individual aged under 18 works on the relevant premises in a capacity, whether paid or unpaid, which involves the delivery of alcohol, or

(c) the alcohol is sold or supplied for consumption on the relevant premises.

8. The exception is simple and clearly stated. No offence under section 151(1) is committed in circumstances where the delivery of alcohol is received by a person under 18 where the delivery takes place at the buyer's home or place of work.

9. It is clear that Parliament never intended home deliveries to be caught, in any circumstances, by the rule preventing delivery to under 18's. There are no caveats in the legislation about how home deliveries are to be made, nor by whom, nor in what circumstances they can be made. The exception is simple and clear. Any delivery, **by any person**, to a person under 18 is lawful and incapable of prosecution, provided it is made at the home or place of work of the purchaser.

10. The Police are effectively seeking to constrain Parliament and the legislation by putting their own "spin" on how deliveries to under 18's might be made and in what circumstances. This is an unlawful approach to the legislation. The effect of what the Police are seeking is to amend the legislation to make it more onerous for delivery companies to make deliveries, where a person under 18 is the recipient of the delivery. This is not supported by the wording of the legislation which is clear and unambiguous.

11. Whilst we appreciate that the Police might have the best intentions they cannot change the law to make it more convenient for themselves to enforce. They must accept that delivery by any person in these circumstances is lawful, and their suggested conditions would be unlawful and incapable of enforcement.

12. It would be perfectly possible to deal with the concerns of the Police, if justified, by the review process rather than criminal prosecution.

13. In addition we are aware that a number of licences have been granted in Birmingham permitting delivery without the conditions that the Police seek in this case. If the Police concerns are justified we would expect them to be monitoring those premises closely and to bring review proceedings where there is evidence that the licence is being abused. We know of no such proceedings having been brought, nor concerns having been expressed about their methods of operation.

14. These submissions do not mean that the applicant is ignorant of the dangers of alcohol and children. They have developed procedures which we will explore at the hearing to ensure that every care is taken on a practical level to ensure that alcohol and children don't mix, when deliveries are made.

15. The applicant has been granted 2 licences for exactly this type of operation elsewhere in the country with no conditions similar to those sought by the Police in this case.

16. I have acted for a number of clients throughout the country who have been granted delivery licences such as this and I know of no other Police authority which seeks conditions similar to these anywhere else.



CRAIG BAYLIS
Partner

BRYAN CAVE LEIGHTON PAISNER LLP
Governor's House, 5 Laurence Pountney Hill, London EC4R 0BR, United Kingdom

bclplaw.com



West Midlands Police objection to grant –

Foodstars, 31-32 Manchester Street, Birmingham, B6 4HL

PAGE(S)	DOCUMENT(S)
1 to 2	Decision notice – Licensing Sub Committee C 12th August 2020
3	Section 141 LA 2003
4	Section 146 LA 2003
5	Section 151 LA 2003
6 to 7	Email around conditions



BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE C

WEDNESDAY 12 AUGUST 2020

Foodstars, 31-32 Manchester Street, Birmingham,
B6 4HL

That the application by Foodstars BH Ltd for a premises licence in respect of Foodstars, 31-32 Manchester Street, Birmingham, B6 4HL **BE GRANTED IN PART, IN THAT THE APPLICATION FOR THE PROVISION OF LATE NIGHT REFRESHMENT IS GRANTED, BUT THE APPLICATION FOR THE SALE OF ALCOHOL IS REFUSED.**

Those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued. .

In reaching this decision, the Sub-Committee was mindful of the promotion of the licensing objectives in the Act, particularly the prevention of crime and disorder, the prevention of public nuisance, and the protection of children from harm.

The Sub-Committee's reason for refusing the part of the application relating to the sale of alcohol was due to concerns expressed by West Midlands Police, regarding the degree of control and accountability that the applicant company would have in terms of the Foodstars delivery service, which would allow customers to order alcohol to be delivered to their homes starting at 11.00 hours, throughout the day, and until 23.00 hours.

The Police objections were outlined in full in the Report. In addition, the Police attended the meeting to address the Sub-Committee directly, and explained that the food and/or kitchen element of the delivery operation was not the issue; the concern was the accountability once alcohol left the premises. The proposed drivers who would be undertaking the deliveries were not employees of the company; they would be self-employed individuals. In this regard, the Foodstars operation would be entirely different from alcohol deliveries offered by, for example, supermarkets; supermarket delivery drivers are employees of that company.

The use of self-employed drivers created difficulties in terms of enforcement under the Act, regarding sales of alcohol to drunk persons, and/or to children. There would be no accountability whatsoever for these offences under the Act. As a result, the Police had requested that the arrangement should be that the drivers would be employees of the applicant company; the applicant company had declined that. An alternative course was proposed by Police, namely a 24 hour delay in between order and delivery; that was also declined by the applicant company. This was very unfortunate, as these were sensible precautions which would have given the Sub-Committee confidence, such that the application might have been granted.

The Sub-Committee found the application for provision of late night refreshment to be satisfactory. As regards the sale of alcohol, the Sub-Committee carefully considered the operating schedule put forward by the applicant company and the likely impact of the application, but were not persuaded that either the applicant or the proposed operation of the premises were capable of upholding the licensing objectives when offering alcohol for home delivery. The lack of control and accountability were unacceptable. The remarks of those representing the applicant company, relating to "training" for the self-employed drivers, did not reassure the Sub-Committee at all; the Police had already observed that these individuals would not be employees.

The Sub-Committee gave consideration to whether any measures could be taken to ensure that the licensing objectives could be adequately promoted and that therefore the licence might be granted for sales of alcohol; however Members considered that neither reducing the permitted hours nor refusing the proposed Designated Premises Supervisor would address the concerns raised by West Midlands Police relating to control and accountability. The Sub-Committee therefore resolved to grant only the part of the application relating to the provision of late night refreshment.

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 information contained in the application, the written representations received and the submissions made at the hearing by the applicant and by West Midlands Police.

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.

D 12139

Licensing Act 2003 - sale of alcohol to a person who is drunk

NARRATIVE

Section 141 of the Licensing Act 2003 creates an offence in relation to the sale of alcohol to a person who is drunk.

141(1) A person to whom subsection (2) applies commits an offence if, on relevant premises, he knowingly

- (a) sells or attempts to sell alcohol to a person who is drunk, or
- (b) allows alcohol to be sold to such a person.

141(2) This subsection applies -

- (a) to any person who works at the premises in a capacity, whether paid or unpaid, which gives him authority to sell the alcohol concerned,
- (b) in the case of licensed premises, to -
 - (i) the holder of a premises licence in respect of the premises, and
 - (ii) the designated premises supervisor (if any) under such a licence,
- (c) in the case of premises in respect of which a club premises certificate has effect, to any member or officer of the club which holds the certificate who at the time the sale (or attempted sale) takes place is present on the premises in a capacity which enables him to prevent it, and
- (d) in the case of premises which may be used for a permitted temporary activity by virtue of part 5, to the premises user in relation to the temporary event notice in question.

141(3) This section applies in relation to the supply of alcohol by or on behalf of a club to or to the order of a member of the club as it applies in relation to the sale of alcohol.

141(4) *penalty only - see below*

MODE OF TRIAL AND PENALTY

Summary: fine not exceeding level 3 on the standard scale
Also consider penalty notice for disorder

POWERS OF ARREST

Arrest without warrant

SOURCE(S)

Licensing Act 2003

RELATED MATERIAL

141 Sale of alcohol to a person who is drunk

RELATED CASES

Ross v Moss and others 1965
Meaning of the term 'knowingly'

D 12143

Licensing Act 2003 - sale of alcohol to children

NARRATIVE

Section 146 of the Licensing Act 2003 creates the offence of selling alcohol to children.

146(1) A person commits an offence if he sells alcohol to an individual aged under 18.

146(2) A club commits an offence if alcohol is supplied by it or on its behalf -

- (a) to, or to the order of, a member of the club who is aged under 18, or
- (b) on the order of a member of the club, to an individual who is aged under 18.

146(3) A person commits an offence if he supplies alcohol on behalf of a club -

- (a) to, or to the order of, a member of the club who is aged under 18, or
- (b) to the order of a member of the club, to an individual who is aged under 18.

146(4) Where a person is charged with an offence under this section by reason of his own conduct it is a defence that -

- (a) he believed that the individual was aged 18 or over, and
- (b) either -
 - (i) he had taken all reasonable steps to establish the individual's age, or
 - (ii) nobody could reasonably have suspected from the individual's appearance that he was aged under 18.

146(5) For the purposes of subsection (4), a person is treated as having taken all reasonable steps to establish an individual's age if -

- (a) he asked the individual for evidence of his age, and
- (b) the evidence would have convinced a reasonable person.

146(6) Where a person (**the accused**) is charged with an offence under this section by reason of the act or default of some other person it is a defence that the accused exercised all due diligence to avoid committing it. (see note below)

146(7) *penalty only - see below*

Note

Section 146(6) provides a further defence in circumstances where the act or default which led to the accused being charged was by someone other than the person charged with the offence (for example, where the manager of a pub is charged with the offence although the actual sale was made by a barman) if the person charged exercised all due diligence to avoid committing the offence.

MODE OF TRIAL AND PENALTY

Summary: fine

Also consider penalty notice for disorder

Note

Note that for offences committed since 12 March 2015, section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 removes the limits on certain fines given by the Magistrates' Courts. Offences that were previously punishable by fines of 'prescribed sums' and that were limited to 'not exceeding level 5 on the standard scale' or 'not exceeding the statutory maximum', are now punishable by a fine of any amount.

POWERS OF ARREST

D 12148

Licensing Act 2003 - delivering alcohol to children

NARRATIVE

Section 151 of the Licensing Act 2003 creates the offence of delivering alcohol to children.

151(1) A person who works on relevant premises in any capacity, whether paid or unpaid, commits an offence if he knowingly delivers to an individual aged under 18 -

- (a) alcohol sold on the premises, or
- (b) alcohol supplied on the premises by or on behalf of a club to or to the order of a member of the club.

(See note (i) below)

151(2) A person to whom subsection (3) applies commits an offence if he knowingly allows anybody else to deliver to an individual aged under 18 alcohol sold on relevant premises.

151(3) This subsection applies to a person who works on the premises in a capacity, whether paid or unpaid, which authorises him to prevent the delivery of the alcohol.

151(4) A person to whom subsection (5) applies commits an offence if he knowingly allows anybody else to deliver to an individual aged under 18 alcohol supplied on relevant premises by or on behalf of a club to or to the order of a member of the club.

151(5) This subsection applies -

- (a) to a person who works on the premises in a capacity, whether paid or unpaid, which authorises him to prevent the sale, and
- (b) to any member or officer of the club who at the time of the supply in question is present on the premises in a capacity which enables him to prevent the supply.

151(6) Subsections (1), (2) and (4) do not apply where -

- (a) the alcohol is delivered at a place where the buyer or, as the case may be, person supplied lives or works, or
- (b) the individual aged under 18 works on the relevant premises in a capacity, whether paid or unpaid, which involves the delivery of alcohol, or
- (c) the alcohol is sold or supplied for consumption on the relevant premises.

(See note (ii) below)

151(7) *penalty only - see below*

NOTES

(i) This offence would cover, for example, circumstances where a child takes delivery of a consignment of alcohol bought by his father from an off-licence (in a case where the exceptions mentioned below do not apply).

(ii) Subsection (6) provides that the offences in this section are not committed if the alcohol is delivered to the home or place of work of the purchaser or person who is supplied (for example, where a child answers the door and signs for the delivery of his father's order at his house), nor where the job of the minor who took delivery of the alcohol involves delivery of alcohol (for example, where a 16 year old office worker is sent to collect a delivery for his employer), nor where the alcohol is sold or supplied for consumption on the relevant premises.

MODE OF TRIAL AND PENALTY

Summary: fine

Abdool Rohomon

From: [REDACTED]
Sent: 20 October 2020 17:35
To: Abdool Rohomon
Subject: [External]: RE: Foodstars - Manchester Street, Birmingham

CAUTION: This email originated from outside of West Midlands Police. Do not click links or open attachments unless you are sure the content is safe.

Thanks for your email Abs

As previously discussed we cannot accept the proposed conditions which we view as being unlawful when considered in the context of section 151(6) Licensing Act 2003.

**BRYAN
CAVE
LEIGHTON
PAISNER** **BLP**

CRAIG BAYLIS
Partner
BRYAN CAVE LEIGHTON PAISNER LLP - London, UK
[REDACTED]

COVID-19: UK CONTRACTUAL DISPUTES FAQs ▶

BCLP London has moved office,
Governor's House, 5 Laurence Pountney Hill, London EC4R 0BR

From: Abdool Rohomon [mailto:[REDACTED]]
Sent: 20 October 2020 10:28
To: Craig Baylis
Subject: Foodstars - Manchester Street, Birmingham

Dear Mr Baylis,

Thank you for your new application for the above premises. As you are aware we objected last time as two proposed conditions in relation to the sale of alcohol were not accepted by the applicant.

Whilst you have submitted a new application and not included either of the condition, it is only fair that we once again offer these as appropriate control measures for the sale of alcohol, indeed the licensing subcommittee in its decision notice even indicated that they were sensible precautions which would have given the Sub-committee confidence, such that the application might have been granted.

As such I will offer you these conditions again

Either –

- Drivers who are engaged in the delivery of alcohol will be direct employees of the applicant company, and trained by the applicant company in the licensing act 2003 or
- There will be a 24hr delay in between the ordering of alcohol and its delivery if a third party company are used

The last representation date is the 3rd November, I am off from next Wednesday, so if you can respond before the 27th it would be appreciated

Kind regards

Abs Rohomon. BEM

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

Internal : [REDACTED]
External : [REDACTED]

Follow us on Twitter - @brumcopslicensing

West Midlands Police
Tel. 101. Ext. [REDACTED]

Email: [REDACTED]
Website: www.west-midlands.police.uk
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YouTube: www.youtube.com/westmidlandspolice

Vision statement - Serving our communities, protecting them from harm

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Bryan Cave Leighton Paisner LLP

Governor's House, 5 Laurence Pountney Hill, London EC4R 0BR, UK
DX 92 London/Chancery Lane
t: +44 (0)20 3400 1000 f: +44 (0)20 3400 1111 w: www.bclplaw.com

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