

**BIRMINGHAM CITY COUNCIL**  
**LICENSING SUB-COMMITTEE A**

**Monday 24 October 2022 at 1000**  
**hours in On-Line Meeting,**  
**Microsoft Teams**

**A G E N D A**

**1     NOTICE OF RECORDING/WEBCAST**

The Chair to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's meeting You Tube site ([www.youtube.com/channel/UCT2kT7ZRPFCXq6\\_5dnVnYlw](https://www.youtube.com/channel/UCT2kT7ZRPFCXq6_5dnVnYlw)) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

**2     DECLARATIONS OF INTERESTS**

Members are reminded 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**

**Attached**   **4     MODERNA RESTAURANT, 350 SUMMER LANE, BIRMINGHAM, B19 3QL**  
**- LICENSING ACT 2003 AS AMENDED BY THE VIOLENT CRIME**  
**REDUCTION ACT 2006 - APPLICATION FOR EXPEDITED REVIEW OF**  
**PREMISES LICENCE: CONSIDERATION OF INTERIM STEPS**

N.B. Application scheduled to be heard at 1000 hours.

Documents submitted.

- A.     Certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003
- B.     Application for Review of Licence
- C.     Copy of Premises Licence
- D.     Location maps

West Midlands Police have applied for an expedited review of the premises licence in respect of Moderna Restaurant, 350 Summer Lane, Birmingham, B19 3QL.

The application has been made under Section 53A of the Licensing Act 2003 (as amended) and has been accompanied by a certificate signed by a senior member of the force, stating that in their opinion the licensed premises have been associated with serious crime and disorder. (See A and B above)

In accordance with the regulations, the licensing authority has given the premises licence holder and responsible authorities a copy of the application for review and a copy of the certificate.

This hearing has been arranged in order to consider whether it is necessary to take any interim steps in respect of the licence pending the determination of the review. The Premises Licence is included at item C.

The interim steps that must be considered at the hearing are:

- Modification of the conditions of the premises licence;
- Exclusion of the sale of alcohol by retail from the scope of the licence;
- Removal of the designated premises supervisor from the licence;
- Suspension of the licence

## **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.

# West Midlands Police

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

I hereby certify that in my opinion the premises described below are associated with serious crime and disorder

**Premises: Moderna Restaurant**

**Premise Licence Number: 5492**

**Premise Licence Holder: Mr Ghebru Ghirmay**

**Designated Premise Supervisor: Mr Ghebru Ghirmay**

**I am a Superintendent in West Midlands Police.**

I am giving this certificate because I am in the opinion that the procedures under the Licensing Act are inappropriate in this case because the standard review procedures are thought to be inappropriate due to the seriousness of the crime, and the serious management failings of the premises concerned.

The actions of the management and staff involved in the wounding and robbery of an innocent member of the public cast serious doubt on their abilities to promote the licensing objectives.

This assault with weapons was committed by the owner of the premises and members of his staff. The injured person was then taken outside where he was beaten further, his phone and cash approximately £111 were taken and he was left in the street. The injured person has been hospitalised and is awaiting a CT scan in relation to his injuries.


Section 18 wounding with intent is a serious crime by virtue of the maximum sentence being life imprisonment if a person is found guilty of this offence and warrants the use of this power. The offences have been committed by the staff at the premises who are in a position of trust in the premises with a duty to promote the safety of the public and to prevent crime and disorder

I have considered the use of the normal review procedure but I do not feel this would be appropriate in these circumstances due to the above reasons, and the fact that to maintain the licensing objective of preventing crime and disorder the normal review procedure would not be sufficient.

The severity of the incident is a matter that needs to be brought to the attention of the Licensing Committee immediately.

I am conscious of the guidance on the use of "Expedited Reviews" and given the emphasis that is given to use of this power to tackle serious crime and disorder, my feelings that this process is deemed appropriate are further enforced.

Signed

 SUPT S955





## 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 5955 HASSON JHIGAR

(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: **Moderna Restaurant**

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

**350, Summer Lane, Newtown.**

Post Town: **Birmingham**

Post Code (if known): **B19 3QL**

2. Premises Licence details:

Name of premise licence holder (if known):

**Mr Ghebru Ghirmay**

Number of premise licence (if known):

**5492**

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)

Moderna Restaurant is a licensed premises situated at 350, Summer Lane, Newtown, Birmingham. B19 3QL. The premises license holder and designated premises supervisor is Mr Ghebru Ghirmay. The premises license was issued on 22<sup>nd</sup> February 2022. Since that time there have been no police interventions with the premises.

The premises is licensed to sell alcohol for consumption on and off the premises between the hours of 0900 and 0100 between Sunday and Thursday and 0900 and 0330 on Fridays and Saturdays.

At 2300 hours Tuesday 19<sup>th</sup> October 2022 the premises were open and conducting licensable activity. A male and his female companion entered the premises and in all he has had ten pints of beer to drink and a double whisky.

The male was approached by a member of staff from the premises who he owed £150 pounds to. This male is believed to be the premises license holder and Designated Premises Supervisor. The staff member has taken £111 and the victim's mobile phone from him.

A female member of staff has then hit the victim over the head with a whisky bottle. Other persons have then started punching and kicking the victim. The victim has been dragged outside the premises where he has been punched and kicked further by people including the premises license holder. The victim has then been left in the street.

A member of the public from another premises nearby has called the police who have attended the scene. The victim has then been taken to City Hospital where he is awaiting a CT scan to ascertain his injuries. Enquiries are ongoing to trace the offenders for their arrest.

Section 18 wounding with intent to cause grievous bodily harm is a serious crime by virtue of the maximum sentence on conviction being life imprisonment. This offence has been aggravated by the use of a weapon and has been committed by the staff from the premises who are there to promote the licensing objectives in particular the prevention of crime and disorder and the promotion of public safety.

West Midlands Police have no confidence in the premises being able to promote the licensing objectives and in this case it is actually the premises license holder and his staff that have committed this very serious and vicious assault on a customer in their premises. This is a person that they should be ensuring their safety not endangering it. This is such a serious incident and breach of the licensing objectives that West Midlands Police would request that the premises license is revoked and the Designated Premises Supervisor is removed.

Signature of applicant:

 SUPT SRSF

Date: 20/10/22

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): 0121 626 6099**

**E-mail - bw\_licensing@west-midlands.police.uk**

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.





**LICENSING ACT 2003****PREMISES LICENCE**

Premises Licence Number:

5492 / 1

**Part 1 - Premises details:**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>	
Moderna Restaurant 350 Summer Lane	
<b>Post town:</b>	<b>Post Code:</b>
Birmingham	B19 3QL
<b>Telephone Number:</b>	

**Where the licence is time limited the dates**

N/A

**Licensable activities authorised by the licence**

L	Late night refreshment
M3	Sale of alcohol by retail (both on & off the premises)

**The times the licence authorises the carrying out of licensable activities**

Sunday - Thursday	09:00	-	01:00	M3
	23:00	-	01:00	L
Friday - Saturday	09:00	-	03:30	M3
	23:00	-	03:30	L
On Bank Holidays, opening times will be extended by 1 hour.				All
On the commencement of British Summer time, one further hour to be added to the above time for closing time.				All
Opening times extended from the end of permitted hours on New Year's Eve to the start of Permitted hours on New Year's Day.				All

**The opening hours of the premises**

Sunday - Thursday	09:00	-	01:30
Friday - Saturday	09:00	-	04:00
On Bank Holidays, opening times will be extended by 1 hour.			
On the commencement of British Summer time, one further hour to be added to the above time for closing time.			
Opening times extended from the end of permitted hours on New Year's Eve to the start of Permitted hours on New Year's Day.			

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**Where the licence authorises supplies of alcohol whether these are on and/or off supplies**

On and Off Supplies

**Part 2**

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

Mr Ghebru Ghirmay

**Post town:**

**Post Code:**

**Telephone Number:**

**Email**

N/A

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

**Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol**

Mr Ghebru Ghirmay

**Post town:**

**Post Code:**

**Telephone Number:**

N/A

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

**Licence Number**

11953

**Issuing Authority**

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Dated 22/02/2022

Bhapinder Nandhra  
Senior Licensing Officer  
For Director of Regulation and 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 were charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol; (b) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence— (i) the holder of the premises licence, (ii) the designated premises supervisor (if any) in respect of such a licence, or (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence; (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994. (3) Where

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

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

**Annex 2 – Conditions consistent with operating schedule**

**2a) General conditions consistent with the operating schedule**

Training in relation to the promotion of the licensing objectives must be provided and undertaken by all members of staff (whether paid or unpaid) before he / she makes a sale or supply of alcohol and at least every six months thereafter.

Documented training records must be kept at the premises and made available to an officer of a responsible authority on request.

Mr Yohannes Abraham will have no involvement in the operation, running and/or control of the premises.

From 1st April 2022 there must be a personal licence holder present on the premises at all times licensable activity is offered.

The refusals register must be signed by the DPS monthly, even when there are no refusals.

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

A digital Closed Circuit Television System (CCTV) will be installed and maintained in good working order and be correctly time and date stamped.

The system will incorporate sufficient built-in hard-drive capacity to suit the number of cameras installed.

The system will record and retain CCTV footage for a minimum of 28 days

The system will record at all times when the premises are open.

The system will incorporate a means of transferring images from the hard-drive to a format that can be played back on any desktop computer.

CCTV footage must be made available to be viewed by an officer of a responsible authority during an inspection of or visit to the Premises.

Upon receipt of a request for a copy of CCTV footage from any officer of a responsible authority, the premises will produce that footage within 24 hours.

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. An incident book must be kept at the Premises and maintained up to date (no later than 24 hours after the incident) at all times and will record the following:

- Time date and details of all incidents/complaints of crime and disorder or anti-social behaviour
- All crimes reported to the venue
- Any faults in the CCTV system, searching equipment or scanning equipment
- Any visit by a responsible authority or emergency service
- The incident book must be made available to officers of a responsible authority upon request or during an inspection

A refusals register must be kept at the Premises and maintained up to date at all times recording the date and time, type of product refused, reasons for every refusal to sell alcohol to a customer and the name and signature of member of staff refusing the sale. The refusals record must be made available to an officer of a responsible authority upon request.

The premises will risk assess the need of door staff, the numbers of door staff required and start time. Door staff will sign on and off duty. This signing in book will be kept on the premises and made immediately available to any of the responsible authorities upon request.

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Door staff profiles will be kept by the premises for a minimum of 3 months. The profiles will include a copy of their SIA badge and photographic ID. If photographic ID is not available then a copy of a utility bill, no less than 3 months old will be acceptable. These profiles will be made immediately to any of the responsible authorities on request. The premises will offer a substantial food menu for customers up to 1 hour before the end of licensable activity.

Substantial food will be classed as offering at least 3 main meal choices.

There will be no vertical drinking within the premises; customers who are seated will be served alcohol to their tables by premises staff.

If the premises have a DJ performing they will notify West Midlands Police licensing team by email at least 21 days prior will a full risk assessment for that evening.

Last entry to the premises will be 00:00 Sunday to Thursday and 02:30 Friday & Saturday.

### **2c) Conditions consistent with, and to promote, public safety**

The premises licence holder shall conduct a risk assessment for the general operation of the premises. This will include fire, health and safety and emergency evacuation. It will cover all areas of the premises, including the bar/restaurant and any outside areas.

The premises' fire risk assessment will be made available to any responsible authority immediately upon request.

The Licence Holder shall ensure that all emergency lighting is checked on a weekly basis. Entrances, exits and passageways shall be kept clear.

### **2d) Conditions consistent with, and to promote the prevention of public nuisance**

Signs shall be placed at all exits asking customers to respect the needs of local residents and requesting that they leave the premises quietly.

The premises shall have an operational dispersals policy and noise management plan.

No deliveries are to be received between the hours of 21:00 - 07:00.

The premises licence holder or their nominated representative shall supply a written noise risk assessment and noise management plan to Birmingham City Council Environmental Health Department for approval prior to any licensable activity taking place. The noise management plan shall outline the measures to be adopted to reduce the noise impact of activities associated with the premises including deliveries, recycling and refuse collections, external areas, smoking areas, access and egress and customers. All operational controls and management actions required by the approved noise management plan shall be instigated at all times.

To avoid nuisance being caused to neighbours the premises licence holder, or other nominated person, shall monitor the external areas of the Premises after 23.00 hours. If necessary, they shall remind customers to be respectful of neighbours and shall take the necessary steps including limiting the number of customers using the external areas as necessary to avoid customers causing a nuisance.

No drinks shall be removed from premises between 23.00 and the end of licensed hours for alcohol sale unless in a sealed container and intended for off-site consumption.

No waste or recyclable material, including bottles, shall be moved, removed or placed in areas outside the premises building between the hours of 22.00 and 08.00

There shall be no amplified music, speech or sound at the premises at any time which is audible outside the building.

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All external doors and windows shall be kept closed between the hours of 23.00 and 07.00 except as necessary for safe and effective access and egress.

There shall be no smoking of shisha within the premises.

The supply of late night refreshment shall not continue beyond 1 December 2022 unless details of the extract ventilation and odour control equipment, including details of any noise levels, noise control and external ducting has been submitted to and approved in writing by the Environmental Protection Unit of Birmingham City Council. The installation and operation of the extract ventilation and odour control systems shall be in accordance with the approved details and thereafter maintained.

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

The premises will adopt the Challenge 25 scheme with appropriate signage to be placed at the entrance to the premises and adjacent to the service area.

No persons will be allowed into the premises if they are under 18 years old unless they are accompanied by an adult after 21:00.



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**Annex 3 – Conditions attached after hearing by licensing authority**

**3a) General committee conditions**

N/A

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

N/A

**3c) Committee conditions to promote public safety**

N/A

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

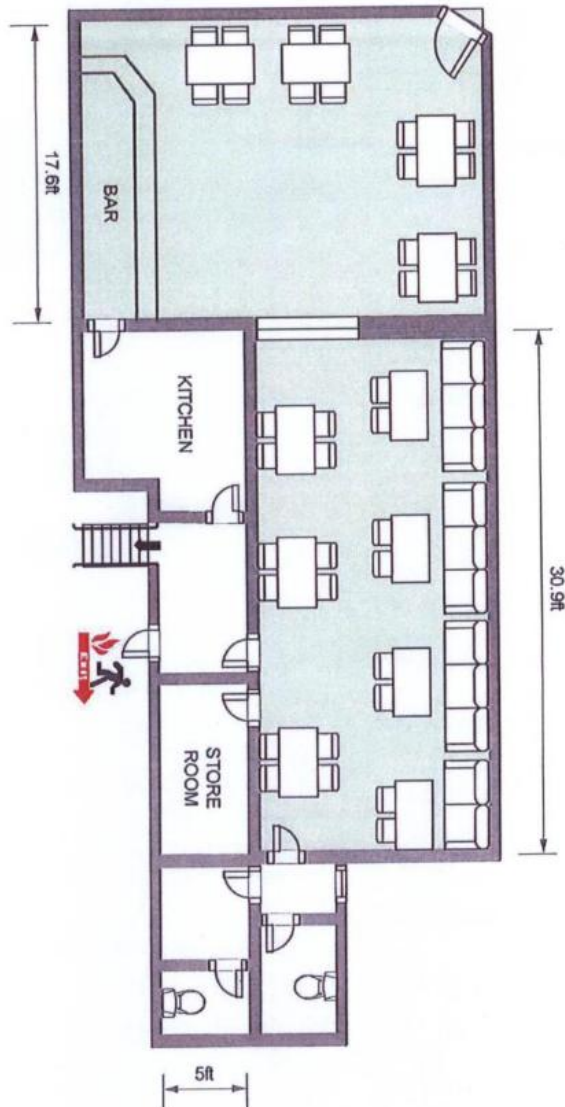
N/A

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

N/A

## Annex 4 – Plans

Floor Plan  
Scale 1:100



November 2020

Licensable Area

Modern Restaurant  
350 Summer Lane  
Birmingham  
B19 3QL

Ref. Modern Nov 2020

