# **PUBLIC REPORT**

| Report to:       | Licensing Sub Committee A   |
|------------------|---|
| Report of:       | <b>Interim Assistant Director of Regulation and Enforcement</b>   |
| Date of Meeting: | Monday 23 <sup>rd</sup> March 2020  |
| Subject:         | Licensing Act 2003 Premises Licence – Summary Review  |
| Premises:        | Jam Rock, 32 New John Street West, Birmingham B19 3NB   |
| Ward affected:   | Newtown   |
| Contact Officer: | Bhapinder Nandhra, Senior Licensing Officer, 0121 303 9896 <a href="mailto:licensing@birmingham.gov.uk">licensing@birmingham.gov.uk</a> |

# 1. Purpose of report:

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

#### 2. Recommendation:

To consider the review and to determine this matter.

# 3. Brief Summary of Report:

An application under Section 53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) was received on 28<sup>th</sup> February 2020 in respect of Jam Rock, 32 New John Street West, Birmingham, B19 3NB.

An additional representation has been submitted by West Midlands Police.

# 4. Compliance Issues:

# 4.1 Consistency with relevant Council Policies, Plans or Strategies:

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

# 5. Relevant background/chronology of key events:

On 28<sup>th</sup> February 2020, Superintendent Green, on behalf of West Midlands Police, applied for a review, under Section 53A of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006), of the Premises Licence granted to Jam Rock in respect of Jam Rock, 32 New John Street West, Birmingham B19 3NB.

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

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

Licensing Sub-Committee A met on  $2^{nd}$  March 2020 to consider whether to take any interim steps and resolved that the Premises Licence be suspended pending a review of the Licence. A copy of the decision is attached at Appendix 2.

The review application was advertised, by the Licensing Authority in accordance with the regulations; the closing date for responsible authorities and other persons ended on the 13<sup>th</sup> March 2020.

An additional representation has been received from West Midlands Police, which is attached at Appendix 3.

A copy of the current Premises Licence is attached at Appendix 4.

Site location plans at Appendix 5.

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

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

# 6. List of background documents:

Review Application and Certificate from West Midlands Police, Appendix 1 Sub-Committee Interim Steps Meeting decision of 2<sup>nd</sup> March 2020, Appendix 2 Additional representation received from West Midlands Police, Appendix 3 Current Premises Licence, Appendix 4 Site location plans, Appendix 5

# 7. Options available:

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

In addition the Sub Committee will need to decide what action, if any, should be taken regarding the interim steps imposed on the  $2^{nd}$  March 2020.



BCC
REGULATION & ENFORCEMENT
LICENSING SECTION
DATE RECEIVED

2 8 FEB 2020

REF NO 10.34 am

INITIALS.

#### 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 lan Green

(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  $\,^{7}$ 

Premises details: Jam Rock
 32 New John Street West

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

Post Town: Birmingham

Post Code (if known): B19 3NB

2. Premises Licence details:

Name of premise licence holder (if known): Mr Rohan McKenzie

Number of premise licence (if known): 4911

 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)

 $\sqrt{\phantom{a}}$ 

 Details of association of the above premises with serious crime, serious disorder or both:

At approximately 0600 hours on the 23<sup>rd</sup> February 2020, a call was received from a hospital around a male victim that had self-presented at hospital with several stab wounds to his leg.

Indications from the victim to the hospital staff was that the incident had occurred inside the premises called Jam Rock and then continued outside.

There were calls from other parties that refused to provide details that they had seen the assault inside the premises.

It was alleged that the incident had happened at around 0500 hours.

The premises were asked to provide CCTV, door staff signing in sheets and an incident report.

The CCTV is of very poor quality and it is difficult to make out what has happened, but it is clear that the premises is fully open, with frequent activity in and out of the front door. An internal camera shows that the premises is very full, from the footage it is estimated that they premises are holding 200+ people.

The front camera does show people reacting at around 0500 hours but it is very difficult to make out what is happening.

There does not appear to be any control of the front door, the cctv shown does not show any searches taking place, although more CCTV is to be provided.

The door staff signing in sheets indicates that there are 2 door supervisors on duty, but it is impossible from the CCTV to identify them, if they are in hi-visibility coats or any form of uniform then it is not showing.

The premise licence holder has been spoken to and he has confirmed that there was a birthday party going on, that had been booked in a month before. He had no temporary event notice in place, and as such is not licensed for regulated entertainment and should have ceased at 0200 for the sale of alcohol and LNR.

He confirmed there were 2 members of door staff on, they were not from a company but people he knew as door staff and asked them to do the security.

The premise licence holder was asked for a fire risk assessment to show his capacity which he has been unable to produce but has confirmed that he did not use any clickers to show the capacity, or had any control on the tickets being sold or how many people were coming into the premises. From what can be seen on the CCTV the premises looked overcrowded.

The incident book, which has been seized indicates that something did happen inside the premises, the premise licence holder did go and find out what was happening, but then states that one male was taken outside.

A statement has been taken from the victim, who states he was attacked inside the premises receiving kicks and punches to his whole body, the victim also thought he had been hit with a bottle. In an area where he thought he had been punched it transpired that he had been stabbed.

West Midlands Police have serious concerns around the management of these premises, it is clear that a serious incident happened inside these premises and then continued outside. This has resulted in a serious crime of a section 18 wounding being crimed. This is compounded by the lack of control at the premise and the apparent tack of management for what was happening. This is shown in poor door control, control of numbers, adequate security.

The crime this has been recorded as constitutes a serious crime as defined. Due to what has happened West Midlands Police are seeking the immediate suspension of the premise licence.

(Please read guidance note 2)

Signature of applicant:

Date: 28 2 2020

Rank/Capacity: SUPERINTENDENT

Contact details for matters concerning this application: Pc 4075 Abdool ROHOMON

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

Telephone Number(s):

E-mail - bw\_licensing

Notes for guidance:

 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 attended 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 meeting.

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

# **West Midlands Police**

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

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

Premises: Jam Rock

Premise Licence Number: 4911

Premise Licence Holder: Mr Rohan McKenzie

Designated Premise Supervisor: Mr Rohan McKenzie

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 seriousness of the crime being committed warrant the use of this power. I have considered the use of the normal review procedure but I do not feel this would be appropriate in these circumstance 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 incidents is a matter that needs to be brought to the attention of the Licensing Committee immediately.

The concern of West Midlands Police is that if steps are not taken to consider the running of these premises they will continue to be used in the manner in which they were discovered on the 23<sup>rd</sup> February 2020. 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 1218 GREEN 28/2/20.



#### **LICENSING SUB COMMITTEE - A**

#### **MONDAY 2 MARCH 2020**

#### JAM ROCK, 32 NEW JOHN STREET, BIRMINGHAM, B19 3NB

That having considered the application made and certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003 for an expedited review of the premises licence held by Rohan McKenzie in respect of Jam Rock, 32 New John Street, Birmingham, B19 3NB this Sub-Committee determines that the licence be suspended pending a review of the licence, such a review to be held within 28 days of receiving the Chief Officer of Police's application.

The Sub-Committee's reason for imposing this interim step was due to the concerns which were expressed by West Midlands Police in relation to matters pertaining to serious crime, namely a section 18 wounding, which had come to light as outlined in the Chief Officer of Police's certificate and application. It was thought that the injured party, a patron of the premises, had received three stab wounds to the leg. The stab wounds were thought likely to have been caused by the use of a knife; however it had been observed by Police on viewing the CCTV that some patrons had been walking about in the premises whilst carrying glass bottles.

The Sub-Committee determined that the cause of the serious crime originated from a complete lack of management control on the night in question – particularly in relation to door control and security. The style of management had been incapable of upholding the licensing objectives; the Police therefore requested a suspension of the licence pending the full review hearing.

The premises had been variously described as a 'bar/ restaurant' and a 'sports bar', but upon viewing the CCTV the Members considered it to be operating akin to a nightclub-style venue. The incident was thought to have occurred at around 0500 hours, and it was therefore apparent that the premises was operating far beyond its permitted hours and in breach of its licence regarding regulated entertainment. The Sub-Committee noted that no Temporary Event Notice had been sought for any special event.

The premises licence holder, who was also the designated premises supervisor, had spoken to Police; however his comments had not inspired any confidence whatsoever in his ability to operate safely. He stated to Police that "a few people" had been in the premises having drinks - yet Police estimated the number to have been approximately 200 persons (the Police estimate of the number was borne out by what was shown on CCTV). In any event, the premises licence holder had no way of correctly assessing numbers, as clickers to check capacity had not been in use. Poor door control, as shown on the CCTV, was of great concern to the Sub-Committee, not least due to fire safety. The Police confirmed that no fire risk assessment appeared to have been done.

The premises licence holder's own description of the activity on the night in question, namely that it had been a 'birthday party' which had been booked in advance, was not accepted by Police; his comment to Police that he "forgot" to submit a Temporary Event Notice was similarly not accepted. The Sub-Committee agreed with the Police on these points. These seemed to be extraordinary statements, and not at all what would be expected from any competent operator.

The Sub-Committee was further unimpressed upon viewing some of the premises' records, which were shown by the Police during the meeting. The Incident Report Book and Security Book were not in the usual format, and in any event some of the notes made of the incident gave rise to their own questions; the Security Book, for example, stated that staff came on duty at 02.00 hours, but that was the time that the premises should have closed - if they had been operating to the terms of their licence.

The Sub-Committee did not have the opportunity to hear submissions by, or on behalf of, the premises licence holder, as nobody representing the premises attended the meeting. However the Members were satisfied that the Police evidence amply demonstrated that the operator had shown a lack of grip which had led to a loss of control and a serious crime incident; as such, the Sub-Committee had no confidence whatsoever that the premises could operate satisfactorily.

The Sub-Committee was therefore of the opinion that the course recommended by West Midlands Police, namely a suspension of the licence, was the proper interim step pending the full review of the premises licence. It was necessary and reasonable to impose this step to address the immediate problem with the premises, in particular the likelihood of serious crime, and to promote the licensing objectives in the Act.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued by the Home Office in relation to expedited and summary licence reviews, and the submissions made by West Midlands Police at the hearing.

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

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

From:

Abdool Rohomon

Sent:

12 March 2020 14:17

To:

Licensing

Cc:

'duncan.craig@'

Subject:

Extra reps - Jam Roc

Dear Licensing,

Following the application made by West Midlands Police against Jam Roc, we seek to make additional representations against the premises.

From Police systems there was a further incident at the premises in November which appears to involve the use of a weapon, which was not called into West Midlands Police. This incident happened at 06.30 hours, when the premises should have closed at 2am.

A check on the Police licensing system shows that no TEN has ever been sent to us to apply for additional hours since the premises has been open.

The additional CCTV that has been sent to us for the incident that lead to the expedited application is of very poor quality, but does show for several dates that regulated entertainment was taking place, even though the premise licence does not have this authority.

Supporting documents will be provided before the hearing

If these can be added as additional reps

Kind regards

Abs Rohomon, BEM

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

Internal:

External:

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West Midlands Police

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Website: www.west-midlands.police.uk
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Vision statement - Serving our communities, protecting them from harm

# **LICENSING ACT 2003**

# PREMISES LICENCE

|                  | of premises, or if none, o  | ranance survey ma      | ib re | ierence (      | or description |   |
|------------------|---|------------------------|-------|----------------|----------------|---|
| Jam Ro<br>32 New | ck<br>John Street West  |                        |       |                |                |   |
| Post town:       |   | Post Code:             |       |                |                |   |
| Birming          | ham   | B19                    | 3NE   | 3              | •              |   |
| Telephone Nur    | nber:   |                        |       |                |                |   |
| Not Sp           | ecified   |                        |       |                | <u></u>        |   |
| Where the lice   | nce is time limited the dat   |                        |       | <u></u>        |                |   |
| N/A              |   |                        |       |                |                |   |
| M3<br>L          | ivities authorised by the li<br>Sale of alcohol by retai<br>Late night refreshments | i (both on & off the p | remi  | ses)           |                |   |
| The times the    | icence authorises the car   | rying out of licensa   | ble a | activities     | · · · · · ·    | - |
| Monday           | / - Sunday  | 12:00<br>23:00         | -     | 02:00<br>02:00 | M3<br>L        |   |
| The opening h    | ours of the premises  |                        |       | <u></u>        |                |   |
| Mondo            | y - Sunday  | 12:00                  | -     | 02:00          |                |   |

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# Part 2

| 32 New John Street West   |  |
|---|--|
| Post town:  | Post Code:   |
| Birmingham  | B19 3NB  |
| Telephone Number:   |  |
| Not Specified   |  |
| mail  |  |
| Not Specified   |  |
| Registered number of holder for exa                                     | imple company number or charity number (where applicable)  |
| N/A   | The same and the same approaches   |
|   |  |
| Rohan McKenzie  |  |
| * 1   | Post Code:   |
| ost town:   | Post Code:   |
|   | Post Code:   |
| elephone Number:  N/A  ersonal licence number and issuing               | Post Code: g authority of personal licence held by designated premises ce authorises for the supply of alcohol |
| elephone Number:  N/A ersonal licence number and issuing                | g authority of personal licence held by designated premises  |
| Post town:  Telephone Number:  N/A  Personal licence number and issuing | g authority of personal licence held by designated premises<br>ce authorises for the supply of alcohol         |

SHAID YASSER Senior Licensing Officer For Director of Regulation and Enforcement

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#### 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 x 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.

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#### Annex 2 - Conditions consistent with operating schedule

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

All training records for all staff to be maintained and to be available upon request for any responsible authority.

The premise licence holder will record all refusals in a refusals book.

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

C.C.T.V. to be operational whilst the premises are open and be recording continually.

The recordings are to be kept for minimum of 28 days.

C.C.T.V images to be made available to any responsible authority immediately on request.

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

The premises will have an incident book and record all incidents that occur inside or immediately outside the premises.

The incident book to be made available to any responsible authority immediately on request.

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

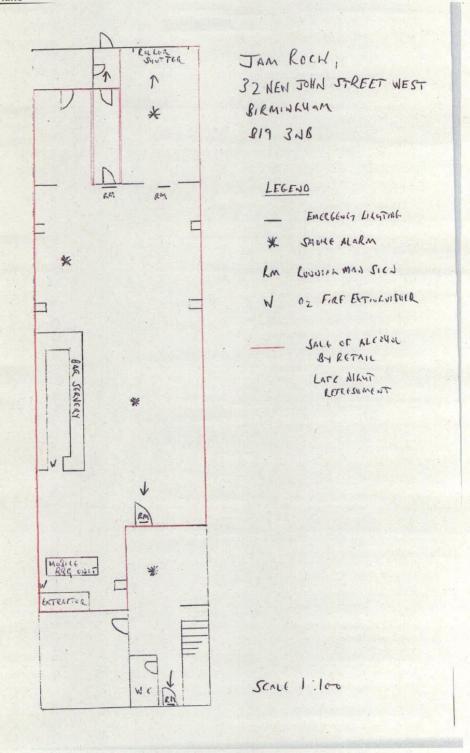
Notices will be displayed in prominent positions requesting that our patrons respect our neighbours.

#### 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 any bar servery.

# 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



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Birmingham City Council, Licensing Section, P.O. Box 17013, Birmingham, B6 9ES

