

Members are reminded that they must declare all relevant pecuniary and non-pecuniary interests relating to any items of business to be discussed at this meeting

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C

WEDNESDAY, 09 NOVEMBER 2016 AT 09:30 HOURS
IN COMMITTEE ROOM 1, COUNCIL HOUSE, VICTORIA SQUARE,
BIRMINGHAM, B1 1BB

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 APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3 - 40

3 LICENSING ACT 2003 PREMISES LICENCE – REVIEW PLAYERS, 240 BROAD STREET, BIRMINGHAM, B1 2HG

Report of the Acting Director of Regulation and Enforcement.
N.B. Application scheduled to be heard at 09:30am on Wednesday 9 November 2016.

41 - 86

4 LICENSING ACT 2003 PREMISES LICENCE – REVIEW AMUSEMENT 13, 16 KENT STREET, DIGBETH, BIRMINGHAM, B5 6RD

Report of the Acting Director of Regulation and Enforcement.
N.B. Application scheduled to be heard at 11:00am on Wednesday 9 November 2016.

A break will be taken between 1230 hours and 1300 hours.

87 - 138

5 LICENSING ACT 2003 PREMISES LICENCE – REVIEW THE RAINBOW LIVE MUSIC VENUE, 29 LOWER TRINITY STREET, DIGBETH, BIRMINGHAM, B9 4AG

Report of the Acting Director for Regulation and Enforcement.
N.B. Application scheduled to be heard at 1:00pm on Wednesday 9 November 2016.

6 **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 C
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Wednesday 9th November 2016
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	Players, 240 Broad Street, Birmingham, B1 2HG
Ward affected:	Ladywood
Contact Officer:	David Kennedy, Principal Licensing Officer, 0121 303 9896, licensing@birmingham.gov.uk

1. Purpose of report:
To consider an application to review a Premises Licence.

2. Recommendation:
To consider and determine the review application.

3. Brief Summary of Report:
Review application received on 20 th September 2016 from Councillor Gareth Moore in respect of Players, 240 Broad Street, Birmingham, B1 2HG. A representation has been received Environmental Health, 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.

<p>5. Relevant background/chronology of key events:</p> <p>Councillor Gareth Moore applied on 20th September 2016 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for Players, 240 Broad Street, Birmingham, B1 2HG.</p> <p>A representation has been received from Environmental Health, as a responsible authority. See Appendix 1.</p> <p>Review application is attached, see Appendix 2.</p> <p>The Premises Licence is attached at Appendix 3.</p> <p>Site location plans are attached at Appendix 4.</p> <p>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.</p> <p>The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -</p> <ul style="list-style-type: none"> a. The prevention of crime and disorder; b. Public safety; c. The prevention of public nuisance; and d. The protection of children from harm.
<p>6. List of background documents:</p> <p>Copy of the representation as detailed in Appendix 1</p> <p>Review Application Form, Appendix 2</p> <p>Copy of Premises Licence, Appendix 3</p> <p>Site Location Plans, Appendix 4</p>
<p>7. Options available</p> <p>Modify the conditions of Licence</p> <p>Exclude a Licensable activity from the scope of the Licence</p> <p>Remove the Designated Premises Supervisor</p> <p>Suspend the Licence for a period not exceeding 3 months</p> <p>Revoke the Licence</p> <p>No Action</p> <p>Where the authority takes a step to modify conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.</p>



**Formal representation on behalf of Environmental Health:
Section 51 review for a premises licence
Players, 240 Broad Street, Birmingham, B1 2HG**

Recommendation

This report recommends conditions to be added to the premises licence.

Introduction

I am Russell Davey, Environmental Health Officer, employed by Birmingham City Council (the "BCC"). I am acting as a representative of Environmental Health, having being advised by the City Council's Licensing Section that Cllr Gareth Moore had requested a review of Player's licence. As part of the review of the above premises, I am formally raising representation from Environmental Health under the duty for the promotion of the prevention of public nuisance and the prevention of crime and disorder.

Background

The matters referred to in this document are around the levels of fly-posting in the city which are associated and/or commissioned by Players; and to which they gain free advertising and/or pecuniary advantage by this activity. Flyposting is a public nuisance and illegal and therefore a crime.

There is no formal definition of fly-posting, it is a colloquialism for illegal adverts and may consist of the display of advertising material on buildings and street furniture without the consent of the owner. This is contrary to the provisions of the Town and Country Planning Act 1990, the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the Highways Act 1980.

Illegal advertising for events at Players have recently been brought to the attention of Environmental Health. As such no written warnings have been sent to the company with regards to this illegal activity to date.

History of flyposting associated with Players

In September 2016 Officers from Environmental Health catalogued and evidenced a range of illegal advertisements that had been removed by the City Council's Pest Control Department during the proceedings months. As part of the evidence that was obtained were:

26 illegal advertisements relating to an event called "Session, DJ Russke, Thursday 30 June 2016." (Appendix 1).

11 illegal advertisements for an event called "Session, Every Thursday @ Players". (Appendix 2).

Problems with flyposting

Flyposting is illegal. Flyposting also makes an area appear run down, feel uncared for and even threatening. In November 2001, Camden Council commissioned MORI to determine how people felt about the quality of their street environment. One in ten respondents indicated that fly-posting made them feel uncomfortable, long with issues such as a lack of Police, graffiti and illegal street trading. Flyposting, in particular placarding, also affects sight lines for drivers and pedestrians using the highway. Concern about fly-posting also scored more highly than concern about young people hanging around; gangs; drug use; stealing; drunks; muggers or traffic (source Keep Britain Tidy). Flyposting is also shown to have a domino effect, causing similar businesses to follow suit and advertise their events in an attempt not to lose business to the first offending premises.

The removal of illegal advertising puts an additional financial burden on BCC. Flyposting can have a severe effect on the "Local Environmental Quality" as illegal advertisements are often left in-situ after the event or promotion has ended leading to a litter problem and making an area look run down. This can lead to an increased perception of crime by residents and visitors.

Posters put up by way of plastic ties on one side of a lamppost tend to be fewer in number as they are more expensive to produce. This modus operandi of advertising is problematic to remove and often results in the cable ties being left behind long after the posters have been removed. Cardboard advertisements are cheaper to produce and as a result tend to be printed in significantly higher volumes. Posters are usually displayed by stapling them back to back around street furniture. Due to the volumes of posters produced; this form of illegal advertising is more prolific and tends to be concentrated around major traffic junctions where a large proportion of street furniture can be affected. As a result, one company's advertisements can have a significant detrimental impact on the appearance of the street scene. Where cardboard posters are left in situ for any time, they quickly start to degrade making their removal more difficult.

Statement of Licensing Policy 2015

As part of the 2015 review of BCC's Statement of Licencing Policy, the section on flyposting has been re-written and now explicitly outlines premises licence holders responsibilities in controlling illegal advertising. It also advises about good practice in

controlling illegal advertising. An extract from the 2015 Statement of Licensing Policy is shown below:

"20.7 Fly posting and Promotional Material

20.7.1 As a leading entertainment centre Birmingham often faces the widespread problem of illegal or nuisance fly posting, and littering from promotional material. This can have an impact on the prevention of public nuisance objective and prevention of crime and disorder objective within the Licensing Act 2003.

"20.7 Fly posting and Promotional Material

20.7.1 As a leading entertainment centre Birmingham often faces the widespread problem of illegal or nuisance fly posting, and littering from promotional material. This can have an impact on the prevention of public nuisance objective and prevention of crime and disorder objective within the Licensing Act 2003.

20.7.2 Existing legislation seeks to address this problem; however, it often proves ineffective in preventing this type of nuisance advertising. The Council is also concerned that some licence holders leave the advertising of regulated entertainment to events promoters and then use this to argue that they are not responsible for any illegal fly posting which occurs.

20.7.3 The Council expects responsible licence holders to ensure the licensing objectives are properly promoted when advertising regulated entertainment at their premises. For this reason it considers licence holders should outline in their operating schedules the steps to be taken to make sure that advertising of licensable activities does not cause nuisance or give rise to crime and disorder.

20.7.4 Where they are engaged, Premises Licence Holders are encouraged to have explicit agreements or contracts with named individuals or companies used to promote events to address the issue of fly posting and littering from promotional material: and to maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority or Authorised Officer on request. Where appropriate, and where consistent with the applicant's operating schedule the Council will impose conditions to this effect when its discretion to do so has been engaged."

Prevention of Public Nuisance

Local Authorities are responsible for enforcing provisions around illegal advertisements and have to remove flyposting from public land and city council street furniture as they are "the owners". Attempts have also been made by BCC to work with the owners of private property to help maintain and improve local environmental quality which often comes at a cost to the land owner. As part of this work attempts have been made to engage with licenced premises to reduce the amount of illegal flyposting that is taking place in the City.

Clearly, as can be seen from the chronology provided, there have been a number of incidents of illegal advertising for events at Players. It would appear that the premises licence holder has made no attempts to control flyposting as part of the prevention of public nuisance licensing objective but instead has contributed to a reduction of the living and working amenity of those working and residing in the area of the licensed premises as recognised in paragraph 2.15 of the Home Office Guidance issued under s.182 of LA 2013:

Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises.

In addition, flyposting is an illegal and therefore it is unreasonable for Players to have not undertaken any meaningful works the offence of illegal advertising in the City.

Environmental Health requests, that where the Licensing Sub Committee considers it appropriate and its discretion is engaged, the following conditions relating to the control of fly posting are inserted into the licence. This will ensure that venue clearly prohibits all fly posting in their contract terms with others; and will overtly advise the premises licence holder on their duty to prevent public nuisance and reduce crime associated with the running of the business.

Recommended Conditions

Even though Environmental Health have not written to the premises licence holder, we think that it is proportional to add the following conditions to the licence:

1. The Premises Licence Holder shall ensure that their premises are not in any way promoted by the use of illegal fly-posting or unauthorised advertisements attached to street furniture.
2. The Premises Licence Holder shall ensure that agreements/contracts with promoters for the use of their premises or for events to be held at their premises prohibit the use of illegal fly-posting and/or advertisements attached to street furniture, and shall take all steps reasonable to enforce such agreement/contract terms. The Premises License Holder shall maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority on request.
3. The Premises Licence Holder shall take all reasonable precautions and exercise all due diligence to ensure that no person/company promoting or providing entertainment on the premises, nor any person acting on behalf of any promoters, shall display in an unlawful manner advertisements promoting the entertainment or the premises, in particular:

a) no display of advertisements should take place on street furniture;

b) no display of advertisements should take place on premises or structures placed on, over, in or adjacent to the highway, unless the licensee has first obtained the written consent of the owner of the premises or structure. Such consent shall be shown to the Environmental Health on request.

4. The Premises Licence Holder shall remove any unlawful advertisements of events at their premises where they become aware of them or they are advised by Birmingham City Council of an illegal advertisement being displayed. Such removal shall take place immediately within 48 hrs of receiving the said notice.

I confirm this is the formal response by Environmental Health as a responsible authority. It has been agreed with the Head of Environmental Health.

Lead Officer or review:

Signed

Russell Davey, Environmental Health Officer,





Appendix 2

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

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

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 this 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. You may wish to keep a copy of the completed form for your records.

I GARETH MOORE
(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
PLAYERS 240 BROAD STREET	
Post town	Post code (if known)
BIRMINGHAM	B1 2HG
Name of premises licence holder or club holding club premises certificate (if known)	
INNSPIRED LEISURE LTD.	
Number of premises licence or club premises certificate (if known)	

Part 2 – Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

☒

2) a responsible authority (please complete (C) below)

☐

3) a member of the club to which this application relates (please complete (A) below)

☐

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr ☐

Mrs ☐

Miss ☐

Ms ☐

Other title
(for example, Rev)

CLR

Surname

First names

MOORE

GARETH

I am 18 years old or over

Please tick ✓ yes



Current postal
address if
different from
premises
address

C/O COUNCIL HOUSE
VICTORIA SQUARE

Post town

BIRMINGHAM

Post Code

B1 1BB

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

Please state the ground(s) for review (please read guidance note 2)

This review is submitted as the premises in question are operating in breach of the Licensing Objectives for Public Safety and Prevention of Public Nuisance, as well as the Council's Statement of Licensing Policy.

The premises are associated with and has permitted fly-posting to take place within the City of Birmingham, promoting events which have taken place at the premises. This fly-posting has taken place at various locations around the City, with posters being attached to railings, traffic lights and other street furniture to promote events. **This has happened on multiple occasions.**

Fly-posting is a major problem for the Council, for not only is it a visual nuisance, but has cost associated with it for the removal of the placards. The placards often remain in place for a long period of time, including after the event which they were advertising, adding to this visual nuisance. The prevalence of such posters at traffic junctions and on pedestrian crossings creates a public safety concern, as this can cause a distraction and obscure pedestrians or other vehicles. This has also made photographing the placards difficult due to them not being easily accessible. These safety concerns are supported by Amey, the Council's highways maintenance contractor who have made the following statement:

"Unauthorised attachments (such as placards and advertising on lighting columns or guardrails) are a serious safety issue as they can obstruct sight lines for both vehicles and pedestrians, particularly at busy road junctions. Additionally these attachments distract drivers and can cause them to slow down or even stop to read them which presents a significant road safety risk."

Amey are proactively working with Birmingham City Council Environmental Enforcement Team as part of the Cleaner Streets initiative to try to stop this illegal activity." Eddie Fellows, Highway Network Director – Amey

Included is statistical information showing the extent of the fly-posting problem in Birmingham, which has increased in recent years, and also how many wards across the City are not meeting the Council's target. These premises, by permitted fly-posting to take place, are contributing to this problem on a regular basis.

Appendix 1 is information provided by Amey showing the number of placards that have been removed by ward between January 2014 and June 2016.

Appendix 2 is the 2015/2016 street cleansing data from Birmingham City Council, which includes a section on fly-posting and provides a breakdown by Ward. This information is from 31st May 2016.

The Council's Statement of Licensing Policy makes it clear what is expected from licensed premises at 20.7 in relation to Fly-posting:

Fly posting and Promotional Material

20.7.1 As a leading entertainment centre Birmingham often faces the widespread problem of illegal or nuisance fly posting, and littering from promotional material. This can have an impact on the prevention of public nuisance objective and the prevention of crime and disorder objective within the Licensing Act 2003.

20.7.2 Existing legislation seeks to address this problem, however, it often proves ineffective in preventing this type of nuisance advertising. The Council is also concerned that some licence holders leave the advertising of regulated entertainment to events promoters and then use this to argue that they are not

responsible for any illegal fly posting which occurs.

20.7.3 The Council expects responsible licence holders to ensure the licensing objectives are properly promoted when advertising regulated entertainment at their premises. For this reason it considers licence holders should outline in their operating schedules the steps to be taken to make sure that advertising of licensable activities does not cause nuisance or result in criminal offences give rise to crime and disorder.

20.7.4 Where they are engaged, Premises Licence Holders are encouraged to have explicit agreements or contracts with named individuals or companies used to promote events to address the issue of fly posting and littering from promotional material; and to maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority or Authorised Officer on request. Where appropriate and where consistent with the applicant's operating schedule the Council will impose conditions to this effect when its discretion to do so has been engaged.

It is clear that these premises are not complying with the Statement of Licensing Policy for fly-posting continues to occur regularly.

On this basis, I ask for the Licensing Authority to revoke the premises licence on the grounds of Public Safety and Prevention of Public Nuisance Licensing Objectives.

Please provide as much information as possible to support the application (please read guidance note 3)

Photo 1 – Taken on 18th May 2016 at Birmingham Road, near to junction with Wylde Green Road, Sutton Coldfield.

Photos 2 to 3 – Taken on 24th May 2016 at Pinfold Street, City Centre

Other placards seen on A5127 in Erdington, Gravelly Hill North, Birmingham Road and Bakers Lane to name just a few locations.

Another round of placards was put up in June 2016 at various locations, including Chester Road and Bakers Lane but was removed before photographs could be taken.

Photos 4 to 9 – Taken on 17th August 2016 at Six Ways Island and Summer Road, Erdington.

Other placards seen on Gravelly Hill North, Birmingham Road and Bristol Road in Longbridge.

These photographs are just a sample of some of the placards that have been put up in Birmingham to promote three separate events at these premises in 2016. These placards are numerous in number to dominate the locations where they are put up.

Please tick ✓ yes

Have you made an application for review relating to the premises before

☐

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

If you have made representations before relating to the premises please state what they were and when you made them

Please tick ✓

yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

Date

20/09/16.

Capacity

COUNCILLOR.

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.















PHOTO 8





Ward	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Total by Ward	
Acocks Green	0	1	12	0	0	0	6	0	0	0	38	0	2	0	97	0	0	0	0	0	0	0	0	0	8	0	2	0	2	0	170	
Aston	6	65	231	14	39	55	6	0	0	1	0	0	3	10	6	0	0	39	0	0	20	2	2	3	2	66	0	0	0	0	570	
Bartley Green	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	2	
Billesley	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Bordesley Green	0	0	0	1	0	0	0	1	0	1	12	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	16
Bournville	0	4	3	0	2	0	0	0	0	0	0	0	0	0	1	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	56	
Brandwood	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	6	
Edgbaston	0	0	50	2	0	0	4	0	1	1	0	0	0	1	0	1	0	56	0	0	47	0	0	1	1	41	1	1	0	0	208	
Erdington	0	0	0	21	0	28	99	0	37	0	2	2	0	3	57	2	103	0	28	0	5	10	3	64	0	5	0	0	0	0	469	
Hall Green	0	26	40	12	0	42	30	46	0	10	0	2	1	0	1	0	1	0	26	0	3	0	0	0	0	0	0	0	0	0	239	
Handsworth Wood	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	2	0	1	0	2	1	0	0	0	0	0	0	0	0	0	14	
Harborne	0	0	20	0	0	0	2	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	39	
Hodge Hill	0	0	2	4	0	0	5	0	40	1	3	0	1	0	12	0	0	0	0	1	0	0	4	0	0	0	0	0	0	0	76	
Kings Norton	0	4	1	7	0	0	0	0	1	0	0	0	0	0	0	0	8	0	0	0	0	0	0	0	0	0	0	0	0	0	23	
Kingsstanding	0	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	15	
Ladywood	10	2	136	14	1	0	10	3	1	1	2	7	1	9	2	0	0	0	5	0	84	1	1	7	1	0	30	7	0	0	335	
Longbridge	0	4	3	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	11	
Lozells and East Handsworth	24	0	0	0	23	3	0	1	0	0	0	3	0	4	0	0	2	1	0	0	0	0	0	0	0	0	0	0	0	0	65	
Moseley and Kings Heath	0	0	1	0	0	0	1	0	0	0	1	0	0	2	0	0	0	0	0	0	1	0	0	0	2	1	1	1	1	1	12	
Nechells	1	45	27	38	32	5	0	10	42	0	0	0	1	1	3	1	9	88	33	3	54	2	1	3	1	32	13	20	67	0	533	
Northfield	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	11	
Oscott	0	48	0	0	0	6	0	2	30	10	29	0	0	12	0	101	12	0	0	12	22	21	1	25	24	6	8	12	0	0	381	
Perry Barr	0	10	0	23	0	8	0	30	0	8	0	32	0	14	0	5	26	0	0	16	23	4	0	0	0	0	0	0	0	0	199	
Quinton	0	0	0	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Selly Oak	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	31	0	0	0	0	0	0	0	0	0	35	
Shard End	0	0	21	15	10	24	1	0	0	0	0	0	0	0	0	0	0	0	0	2	1	0	0	0	0	1	0	0	0	0	75	
Sheldon	0	0	0	3	0	8	0	0	1	0	0	0	2	0	0	7	0	0	6	0	0	0	0	0	0	2	4	1	0	0	34	
Soho	81	39	345	45	26	42	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	20	0	0	0	609	
South Yardley	0	0	1	2	0	0	0	0	5	0	9	0	4	0	2	7	0	0	34	1	0	0	0	0	0	0	0	0	0	0	114	
Sparkbrook	0	5	0	10	8	0	0	0	0	0	1	0	1	1	1	0	1	70	1	0	0	0	0	1	0	56	0	0	0	0	161	
Springfield	0	2	0	2	0	21	0	1	1	2	0	0	3	2	1	1	10	5	4	2	4	0	1	2	3	3	0	0	0	0	74	
Stechford and Yardley North	0	7	5	0	20	32	0	0	0	0	7	0	41	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	143	
Stockland Green	0	0	0	48	0	100	17	21	1	0	11	5	1	10	1	4	13	0	0	0	0	0	0	0	0	0	0	0	0	0	232	
Sutton Four Oaks	0	0	4	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7	
Sutton New Hall	0	0	0	1	0	5	0	0	16	0	0	17	0	1	1	0	0	0	24	0	2	0	10	1	0	0	0	0	0	0	78	
Sutton Trinity	0	0	0	16	0	0	0	0	0	0	2	0	33	1	0	10	0	0	0	0	0	9	2	2	0	4	0	0	0	0	79	
Sutton Vesey	9	0	0	1	0	0	3	13	48	10	3	210	0	1	41	4	1	19	0	6	11	7	1	1	6	50	0	0	0	0	445	
Tyburn	0	5	10	0	1	0	1	0	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	50	0	45	0	0	0	145	
Washwood Heath	0	0	0	1	0	2	0	0	1	0	15	0	0	16	1	0	157	0	0	0	0	0	0	0	0	0	8	0	1	0	202	
Weoley	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	

2015/16 street cleansing inspection performance

Ward (date in brackets denotes start of two-day inspection)	Litter			Fly-posting		
	2015/16	2014/15	2013/2014	2015/16	2014/15	2013/2014
Acoccks Green	3.57	9.29	8.57	0.00	0.71	0.71
Aston	5.71	11.43	12.86	3.57	1.43	4.29
Bartley Green	2.14	4.29	5.00	0.71	0.71	0.71
Billesley	5.00	0.71	1.43	0.71	0.71	0.71
Bordesley Green	11.43	14.29	10.00	4.29	2.86	2.14
Bournville	3.57	0.71	2.14	0.71	0.71	5.00
Brandwood	7.86	2.14	1.43	1.43	0.71	0.00
Edgbaston	2.14	2.14	4.29	6.43	0.71	0.00
Erdington	7.14	6.43	5.71	2.14	0.71	1.43
Hall Green	6.43	2.14	1.43	6.43	2.14	2.86
Handsworth Wood	12.86	7.14	6.43	2.14	0.00	2.14
Harborne	2.86	0.00	0.00	2.14	0.71	1.43
Hodge Hill	5.00	9.29	8.57	1.43	3.57	2.14
Kings Norton	7.14	4.29	1.43	1.43	1.43	0.00
Kingstanding	16.43	5.00	4.29	0.00	1.43	2.14
Ladywood	5.00	4.29	2.14	8.57	2.86	3.57
Longbridge	10.00	2.14	1.43	2.86	5.00	0.71
Lozells & East Handsworth	22.86	12.14	8.57	6.43	4.29	2.14
Moseley & Kings Heath	0.00	2.86	5.00	0.71	2.86	2.14
Nechells	13.57	9.29	8.57	5	2.14	2.14
Northfield	5.71	1.43	4.29	0.71	0.00	0.00
Oscott	7.14	5.00	3.57	1.43	0.00	0.71
Perry Barr	9.29	5.71	4.29	3.57	2.14	0.71
Quinton	7.14	2.86	0.71	0.71	0.00	0.71
Selly Oak	5.00	1.43	0.71	1.43	0.00	1.43
Shard End	0.71	4.29	5.00	5.71	2.14	1.43
Sheldon	1.43	2.86	3.57	0.71	0.71	1.43
Soho	14.29	7.14	7.14	4.29	3.57	2.14
South Yardley	17.14	3.57	1.43	5.00	2.86	0.00
Sparkbrook	8.57	18.57	14.29	7.14	7.86	2.86
Springfield	12.14	9.29	5.00	3.57	1.43	0.71
Stechford & Yardley North	5.71	4.29	2.86	4.29	3.57	8.57
Stockland Green	5.00	7.14	6.43	0.71	2.14	0.71
Sutton Four Oaks	0.71	1.43	0.71	1.43	0.71	0.00
Sutton New Hall	1.43	1.43	0.71	0.00	1.43	1.43
Sutton Trinity	5.00	1.43	2.86	0.00	0.00	0.00
Sutton Vesey	1.43	2.14	5.00	0.00	2.14	2.14
Tyburn	10.00	6.43	3.57	4.29	1.43	2.86
Washwood Heath	6.43	17.14	7.86	1.43	2.86	0.71
Weoley	6.43	1.43	2.14	1.43	1.43	0.71
Target (percentage of unsatisfactory inspected sites)	5	5	3.95	1	1	1
% performance of inspected wards below target	57.50	37.50	52.50	67.50	60.00	55.00

Note 1: 70 sites are inspected in each ward to reach the figures reported

Note 2: The Wards with no figures are scheduled to be inspected before the end of the 2015/16 financial year

Note 3: All 40 Wards are inspected once annually. This is currently under review, with a view to increasing the frequency

Appendix 3

BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003

PREMISES LICENCE

Premises Licence Number:

1699 / 12

Part 1 - Premises details:

Postal address of premises, or if none, ordnance survey map reference or description Players 240 Broad Street	
Post town: Birmingham	Post Code: B1 2HG
Telephone Number:	

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

C	Indoor sporting events
E	Live music
F	Recorded music
G	Performances of dance
H	Anything of similar description to that falling within (live music), (recorded music) or (performances of dance)
I	Provision of facilities for making music
J	Provision of facilities for dancing
K	Provision of facilities for entertainment of a similar description to that falling within (facilities for making music) or (facilities for dancing)
L	Late night refreshment
M1	Sale of alcohol by retail (on the premises)

The times the licence authorises the carrying out of licensable activities

Monday – Sunday	00:00	-	23:59	C ,E ,F ,G ,H ,I ,J ,K ,M1
	23:00	-	05:00	L

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The use of the Premises for licensable activities between the hours of 04:00 and 07:00 is subject to 7 days notice (28 days notice in respect of "risk" events) by any means to the West Midlands Police Licensing officer at Steelhouse Lane police station, or such officer or Police Station as shall have been notified to the designated Premises Supervisor in writing. A "risk" event is defined as a music event attracting a defined or special interest audience. In such cases the Police shall have the right to veto the use of the premises for that event during those hours by giving notice within 3 days of notification.

On the commencement of British Summer time a further additional hour to the standard permitted times

New year's eve – from the end of permitted hours to commencement of permitted hour's new Year's Day

The opening hours of the premises

Monday – Sunday 00:00 - 23:59

N.B: Opening hours may be varied to reflect any such variation of the permitted times for licensable activities as are detailed above.

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

On Supplies Only

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Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Inspired Leisure Limited 2 nd Floor Alderman Fenwick House 98-100 Pilgrim Street	
Post town: Newcastle Upon Tyne	Post Code: NE1 6SQ
Telephone Number: Not Specified	
Email N/A	

Registered number of holder for example company number or charity number (where applicable) 08483660
--

Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Mr Christopher Glen Beasley	
Post town:	Post Code:
Telephone Number:	

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	Issuing Authority

Dated 11/11/2014

David Kennedy
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 $P = D + (D \times V)$, 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.

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Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

The provision of regulated entertainment and late light refreshment to take place indoors only.

The use of the premises for licensable activities between the hours of 04:00 and 07:00 is subject to 7 days notice (28 days notice in respect of "risk" events) by any means to the West Midlands Police Licensing Officer at Steelhouse Lane Police station, or such officer or Police station as shall have been notified to the Designated Premises Supervisor in writing. A "risk" event is defined as a music event attracting a defined or special interest audience. In such case the Police shall have the right to veto the use of the premises for that event during those hours by giving notice within 3 days of notification.

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

CCTV will be installed to the recommendation and specification of West Midlands Police and will be operating all hours the premises are open to members of the public. The CCTV recordings will be kept for a minimum of 28 days and will be made available upon reasonable request from a Responsible Authority.

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

The maximum numbers permitted in the premises shall be agreed from time to time with the West Midlands Fire Officer. The agreed capacity will be displayed at the front of the premises. The full details of capacities for each room will be in document form and available upon request by any responsible Authority.

The premises are to retain door staff profiles for all door staff that are working at the premises or have been working at the premises in the last three months. Profiles are to be proof of identity (photocopy of driving licence or passport) and proof of address dated in the last 3 months (utility bill or bank statement). The only time proof of address is not required is when proof of identity is new photo driving licence. Profiles are to be available for inspection on request by any responsible authority.

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

No enforceable conditions identified from operating schedule.

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

Persons under the age of 16 must be accompanied by an adult and must have vacated the premises by 20:00 hours Sunday to Thursday and by 19:00 hours Friday and Saturday. On the occasion of certain sporting events persons under the age of 16 may be permitted to remain on the premises after 20:00 hours Sunday to Thursday only subject to 14 days prior notice to, and agreement with, Steelhouse Lane Police Station licensing department.

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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

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Annex 4 – Plans

The plan of the premises with reference number **PL/PL/332/01** which is retained with the public register kept by Birmingham City Council and available free of charge for inspection by appointment only. Please ring the Licensing Section on 0121 303 9896 to book an appointment.

Appendix 4



Birmingham City Council Map Created By:

Date of Map Creation: 24/10/2016

Notes

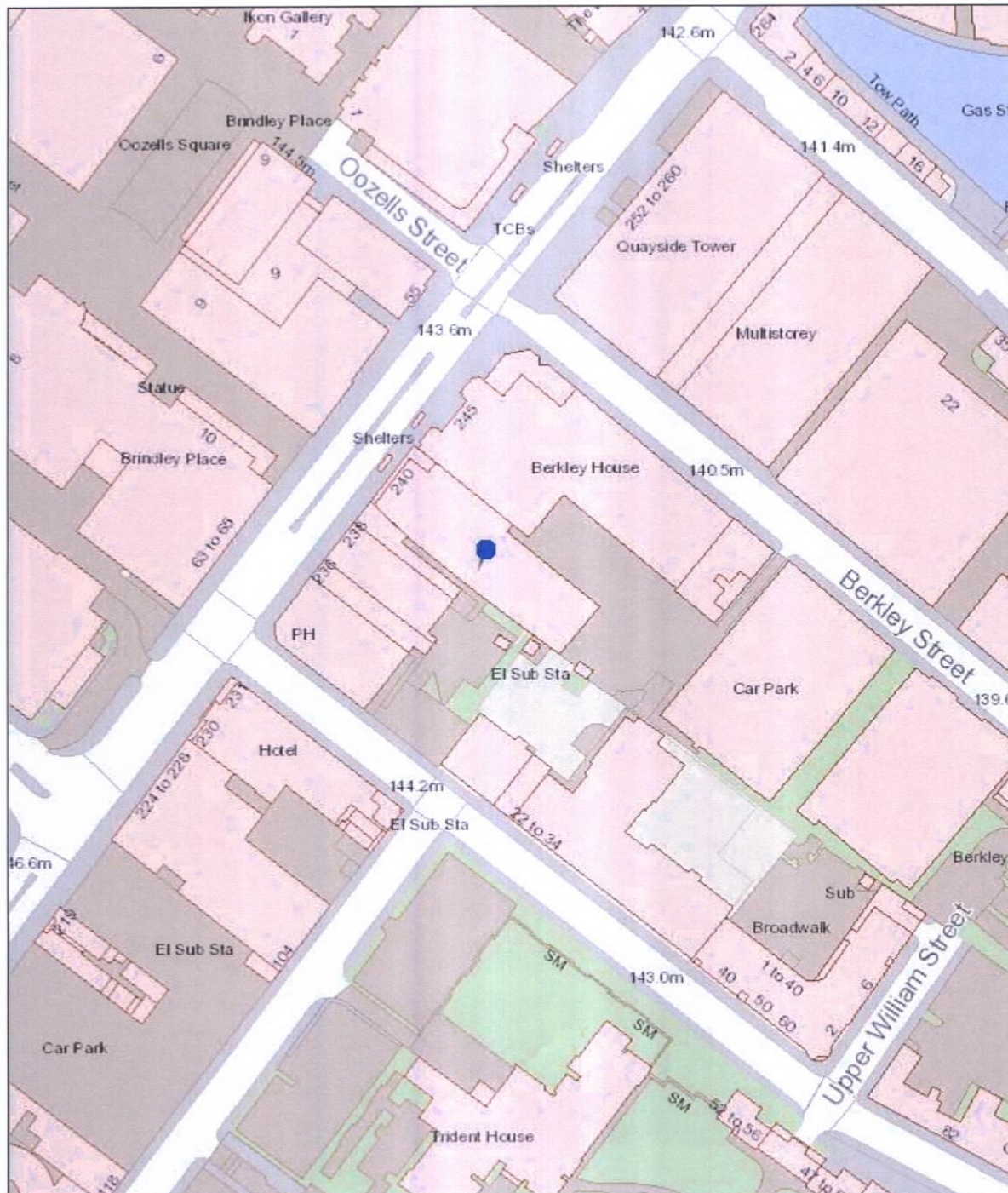
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Scale:
1:4,000



Map Created By:

Notes

Date of Map Creation: 24/10/2016



Scale:
1:1,250

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BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Wednesday 9th November 2016
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	Amusement 13, 16 Kent Street, Digbeth, Birmingham, B5 6RD
Ward affected:	Nechells
Contact Officer:	David Kennedy, Principal Licensing Officer, 0121 303 9896, licensing@birmingham.gov.uk

1. Purpose of report:
To consider an application to review a Premises Licence.

2. Recommendation:
To consider and determine the review application.

3. Brief Summary of Report:
Review application received on 15 th September 2016 from Councillor Gareth Moore in respect of Amusement 13, 16 Kent Street, Digbeth, Birmingham, B5 6RD. A representation has been received Environmental Health, 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.

<p>5. Relevant background/chronology of key events:</p> <p>Councillor Gareth Moore applied on 15th September 2016 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for Amusement 13, 16 Kent Street, Digbeth, Birmingham, B5 6RD.</p> <p>A representation has been received from Environmental Health, as a responsible authority. See Appendix 1.</p> <p>Review application is attached, see Appendix 2.</p> <p>The Premises Licence is attached at Appendix 3.</p> <p>Site location plans are attached at Appendix 4.</p> <p>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.</p> <p>The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -</p> <ul style="list-style-type: none"> a. The prevention of crime and disorder; b. Public safety; c. The prevention of public nuisance; and d. The protection of children from harm.
<p>6. List of background documents:</p> <p>Copy of the representation as detailed in Appendix 1 Review Application Form, Appendix 2 Copy of Premises Licence, Appendix 3 Site Location Plans, Appendix 4</p>
<p>7. Options available</p> <p>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 No Action</p> <p>Where the authority takes a step to modify conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.</p>



**Formal representation on behalf of Environmental Health:
Section 51 review for a premises licence
Amusement 13, 16 Kent Street, Birmingham, B5 6RD**

Recommendation

This report recommends conditions to be added to the premises licence.

Introduction

I am Russell Davey, Environmental Health Officer, employed by Birmingham City Council (the "BCC"). I am acting as a representative of Environmental Health, having being advised by the City Council's Licensing Section that Cllr Gareth Moore had requested a review of Amusement 13's licence. As part of the review of the above premises, I am formally raising representation from Environmental Health under the duty for the promotion of the prevention of public nuisance and the prevention of crime and disorder.

Background

The matters referred to in this document are around the levels of fly-posting in the city which are associated and/or commissioned by Amusement 13; and to which they gain free advertising and/or pecuniary advantage by this activity. Flyposting is a public nuisance and illegal and therefore a crime.

There is no formal definition of fly-posting, it is a colloquialism for illegal adverts and may consist of the display of advertising material on buildings and street furniture without the consent of the owner. This is contrary to the provisions of the Town and Country Planning Act 1990, the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the Highways Act 1980.

BCC has had ongoing issues with regards to flyposting for events at Amusement 13, 16 Kent Street, Birmingham, B5 6RD since 2015. At all times the premises licence holder has been Empire Star Ltd of 352 Bearwood Road, Smethwick, B66 4ET.

The City Council have used a range of interventions in order to try and prevent the illegal advertising. Such interventions have ranged from written warnings to inviting the company to enter into voluntary undertaking with BCC with regards to illegal advertising. Despite these measures illegal advertising has continued for events at Amusement 13.

History of flyposting associated with Amusement 13

On 1st June 2015 a letter was sent to Empire Star Ltd requesting that the company remove all illegal advertising for events at their premises from City Council street furniture and invited them to enter into a voluntary undertaking with BCC agreeing not to cause, suffer, permit or assist in the display of advertisements within Birmingham other than those authorised in accordance with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. A copy of this letter is shown in appendix 1.

On or around the 15th July 2016 the City Council removed 31 posters advertising an event called Soiree on Saturday 16th July 16 at Amusement 13. A photograph illustrating this illegal advertisement is shown in appendix 2.

On the 15th July 2016 a letter was sent to Empire Star Ltd advising of the illegal advertising for their business and that the City Council were minded to take legal proceedings should their illegal advertising activities continue. In this letter the City Council advised that they may consider applying for a review of the premises licence. A copy of this letter is shown in appendix 3.

On the 12th September 2016 further illegal advertisements were identified for an event called Tristan Da Cunha on 17th September 2016 at Amusement 13. A photograph illustrating this illegal advertisement is shown in appendix 4.

Problems with flyposting

Flyposting is illegal. Flyposting also makes an area appear run down, feel uncared for and even threatening. In November 2001, Camden Council commissioned MORI to determine how people felt about the quality of their street environment. One in ten respondents indicated that fly-posting made them feel uncomfortable, long with issues such as a lack of Police, graffiti and illegal street trading. Flyposting, in particular placarding, also affects sight lines for drivers and pedestrians using the highway. Concern about fly-posting also scored more highly than concern about young people hanging around; gangs; drug use; stealing; drunks; muggers or traffic (source Keep Britain Tidy). Flyposting is also shown to have a domino effect, causing similar businesses to follow suit and advertise their events in an attempt not to lose business to the first offending premises.

The removal of illegal advertising puts an additional financial burden on BCC. Flyposting can have a severe effect on the "Local Environmental Quality" as illegal advertisements are often left in-situ after the event or promotion has ended leading to a litter problem and making an area look run down. This can lead to an increased perception of crime by residents and visitors.

Posters put up by way of plastic ties on one side of a lamppost tend to be fewer in number as they are more expensive to produce. This modus operandi of advertising is problematic to remove and often results in the cable ties being left behind long after the posters have been removed. Cardboard advertisements are cheaper to produce and as a result tend to be printed in significantly higher volumes. Posters are usually displayed by stapling them back to back around street furniture. Due to the volumes of posters produced; this form of illegal advertising is more prolific and tends to be concentrated around major traffic junctions where a large proportion of street furniture can be affected. As a result, one company's advertisements can have a significant detrimental impact on the appearance of the street scene. Where cardboard posters are left in situ for any time, they quickly start to degrade making their removal more difficult.

Statement of Licensing Policy 2015

As part of the 2015 review of BCC's Statement of Licencing Policy, the section on flyposting has been re-written and now explicitly outlines premises licence holders responsibilities in controlling illegal advertising. It also advises about good practice in controlling illegal advertising. An extract from the 2015 Statement of Licensing Policy is shown below:

"20.7 Fly posting and Promotional Material

20.7.1 As a leading entertainment centre Birmingham often faces the widespread problem of illegal or nuisance fly posting, and littering from promotional material. This can have an impact on the prevention of public nuisance objective and prevention of crime and disorder objective within the Licensing Act 2003.

"20.7 Fly posting and Promotional Material

20.7.1 As a leading entertainment centre Birmingham often faces the widespread problem of illegal or nuisance fly posting, and littering from promotional material. This can have an impact on the prevention of public nuisance objective and prevention of crime and disorder objective within the Licensing Act 2003.

20.7.2 Existing legislation seeks to address this problem; however, it often proves ineffective in preventing this type of nuisance advertising. The Council is also concerned that some licence holders leave the advertising of regulated entertainment to events promoters and then use this to argue that they are not responsible for any illegal fly posting which occurs.

20.7.3 The Council expects responsible licence holders to ensure the licensing objectives are properly promoted when advertising regulated entertainment at their premises. For this reason it considers licence holders should outline in their operating schedules the steps to be taken to make sure that advertising of licensable activities does not cause nuisance or give rise to crime and disorder.

20.7.4 Where they are engaged, Premises Licence Holders are encouraged to have explicit agreements or contracts with named individuals or companies used to promote events to address the issue of fly posting and littering from promotional material: and to maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority or Authorised Officer on request. Where appropriate, and where consistent with the applicant's operating schedule the Council will impose conditions to this effect when its discretion to do so has been engaged."

Prevention of Public Nuisance

Local Authorities are responsible for enforcing provisions around illegal advertisements and have to remove flyposting from public land and city council street furniture as they are "the owners". Attempts have also been made by BCC to work with the owners of private property to help maintain and improve local environmental quality which often comes at a cost to the land owner. As part of this work attempts have been made to engage with licenced premises to reduce the amount of illegal flyposting that is taking place in the City and particularly with regards to Amusement 13.

Clearly, as can be seen from the chronology provided, the premises licence holder has made no attempts to control flyposting as part of the prevention of public nuisance licensing objective but instead has contributed to a reduction of the living and working amenity of those working and residing in the area of the licensed premises as recognised in paragraph 2.15 of the Home Office Guidance issued under s.182 of LA 2013:

Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises.

In addition, flyposting is an illegal and therefore it is unreasonable for Amusement 13 to have not undertaken any meaningful works to prevent the repetition of the offence of illegal advertising in the City.

Environmental Health requests, that where the Licensing Sub Committee considers it appropriate and its discretion is engaged, the following conditions relating to the control of fly posting are inserted into the licence. This will ensure that venue clearly prohibits all fly posting in their contract terms with others; and will overtly advise the premises licence holder on their duty to prevent public nuisance and reduce crime associated with the running of the business.

Recommended Conditions

1. The Premises Licence Holder shall ensure that their premises are not in any way promoted by the use of illegal fly-posting or unauthorised advertisements attached to street furniture.

2. The Premises Licence Holder shall ensure that agreements/contracts with promoters for the use of their premises or for events to be held at their premises prohibit the use of illegal fly-posting and/or advertisements attached to street furniture, and shall take all steps reasonable to enforce such agreement/contract terms. The Premises License Holder shall maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority on request.

3. The Premises Licence Holder shall take all reasonable precautions and exercise all due diligence to ensure that no person/company promoting or providing entertainment on the premises, nor any person acting on behalf of any promoters, shall display in an unlawful manner advertisements promoting the entertainment or the premises, in particular:

a) no display of advertisements should take place on street furniture;

b) no display of advertisements should take place on premises or structures placed on, over, in or adjacent to the highway, unless the licensee has first obtained the written consent of the owner of the premises or structure. Such consent shall be shown to the Environmental Health on request.

4. The Premises Licence Holder shall remove any unlawful advertisements of events at their premises where they become aware of them or they are advised by Birmingham City Council of an illegal advertisement being displayed. Such removal shall take place immediately within 48 hrs of receiving the said notice.

I confirm this is the formal response by Environmental Health as a responsible authority. It has been agreed with the Head of Environmental Health.

Lead Officer or review:

Signed

Russell Davey, Environmental Health Officer



Reference: WK/007966083

Date: 1st June 2015

Empire Star Ltd
352 Bearwood Road
Bearwood
Smethwick
B66 4ET

Dear Sir or Madam

Re: Illegal advertising – Amusement 13

It has come to my attention that illegal advertisements for events at Amusement 13 are continually being displayed across the City of Birmingham in contravention of the following legislation:

- Section 132 of the Highways Act 1980
- Regulation 30 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007
- Section 224 of the Town and Country Planning Act 1990

As a director of Empire Star Ltd I take the view that you are liable for the conduct of your promoters in respect of any advertising for events at Amusement 13.

Consequently I am now requiring you to remove all existing unauthorised advertising (and we will assist you in identifying these). The legislation requires unlawful advertisements to be removed within 48 hours of them being brought to your attention, however, on this occasion we are willing to extend this to 7 days from today's date, i.e. by no later than Tuesday 8th June 2015. Due to the scale of the problem we are minded to seek a formal review of your licence under the Licensing Act 2003.

Furthermore I would invite you to sign the attached undertaking agreeing that you will not, either by yourself or by encouraging or instructing anyone else, to:

"Cause, suffer, permit or assist in the display of advertisements within the City of Birmingham other than those authorised in accordance with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007."

Furthermore, in the event of future promotions being advertised unlawfully you undertake to remove such advertisements within 48 hours of receipt of written notice from the City Council. Details of the promoter (full name, address and telephone



Russell Davey
Environmental Health
Regulation & Enforcement
PO Box 16978
Birmingham
B2 2AX

The Place Directorate

number) will be provided to the City Council on request, in addition to information already provided to West Midlands Police Licensing Team.

Should you not agree to the undertaking and you and/or your promoter continue to advertise unlawfully we put you on notice that proceedings will be commenced for injunctive relief under the above legislation.

So as to enable you sufficient time to take independent legal advice I would be grateful if the undertaking could be returned by no later than 15th June 2015.

Yours faithfully

Russell Davey

Between
Birmingham City Council

And
Empire Star Ltd

Undertaking

We Empire Star Ltd hereby undertake, whether by ourselves, or by encouraging or instructing any other person from:

Causing, suffering, permitting or assisting in the display of advertisements within the City of Birmingham other than those authorised in accordance with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

Furthermore we hereby undertake to

Remove any existing unlawful advertising for Amusement 13 as identified to us by Birmingham City Council within 5 days of Birmingham City Council bringing this to the attention of Empire Star Ltd.

Remove any unlawful advertising for future promotions at Amusement 13 as identified to us by Birmingham City Council within 48 hours of Birmingham City Council bringing this to the attention of Empire Star Ltd. Provide Birmingham City Council with full contact details of the promoter of any unlawfully advertised event on written request.

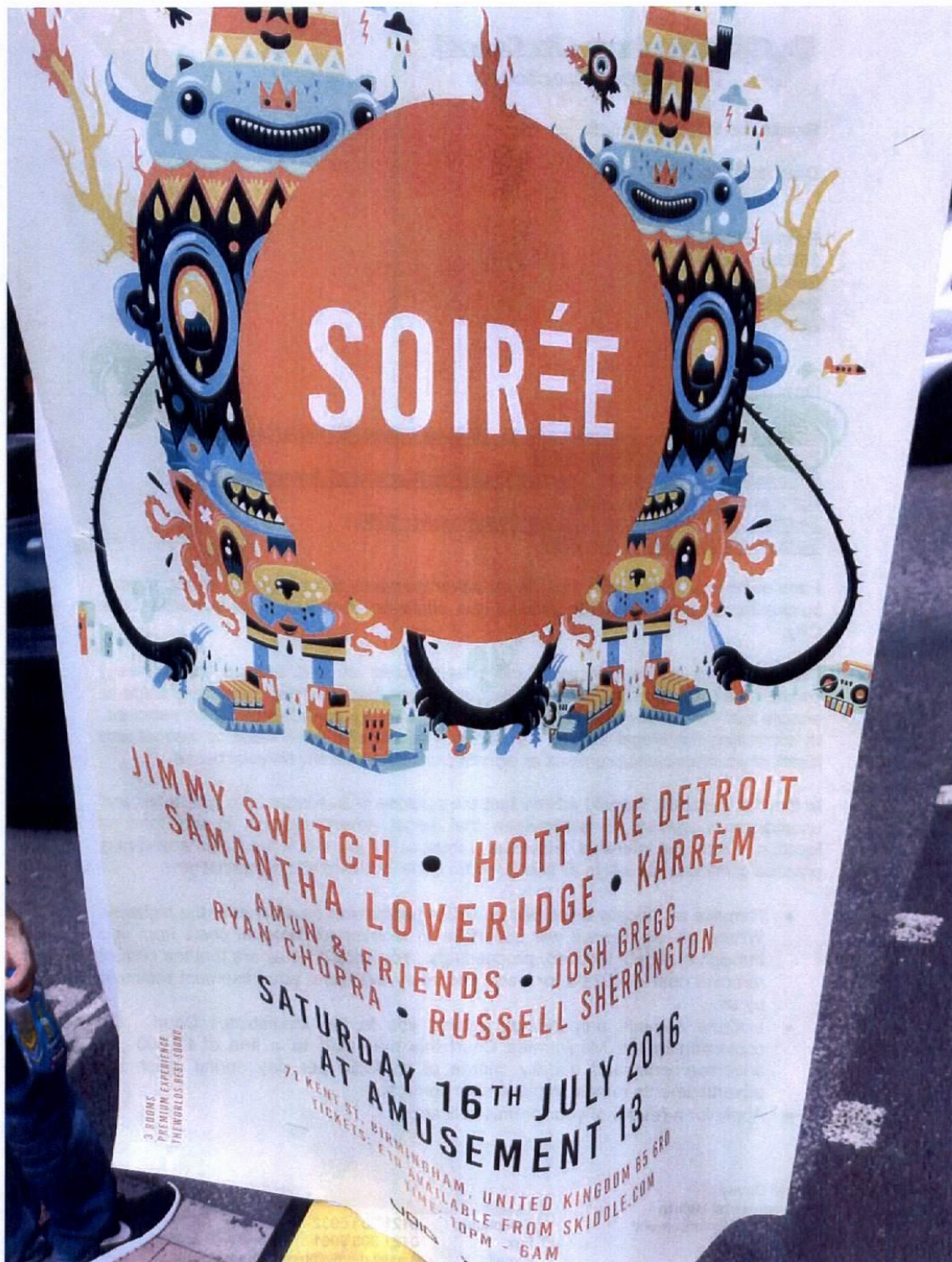
Signed on behalf of

By

.....

.....
(print name)

Dated this day of





Reference: WK/008361516

Date: 15th July 2016

Empire Star Ltd
352 Bearwood Road
Bearwood
Smethwick
B66 4ET

Dear Sir/Madam

Illegal advertising – Amusement 13, 16 Kent Street, Birmingham
Highways Act 1980, Section 132
Regulation 30, Town and Country Planning (Control of Advertisements)
(England) Regulations 2007
Section 224 – Town and Country Planning Act 1990
Section 51, Licensing Act 2003

I am writing to inform you that illegal advertisements relating to an event at your business/premises have been erected and displayed at various locations around the City.

These adverts (signs, placards and posters fixed on and around the highway) contravene the above legislation. I would request that you take immediate steps to ensure that the activity is stopped and that any existing advertisements are removed. In controlling the illegal activity I trust that you will also take steps to instruct any hirers of your business/premises or agents/promoters that act on your behalf.

In the first instance, I would advise that the purpose of this letter is to give a fair and unambiguous warning to businesses that illegal advertisements, in any form or location, will not be tolerated. However, I must notify you that if the illegal advertising practice continues we will in all likelihood take the following steps against you:

- Remove all illegally displayed advertisements fixed on or around the highway. Where we do this we will undertake to recover all removal costs from you through civil debt recovery proceedings. You should be aware that the current removal cost is £52.60 for each and every individual advertisement removed by us.
- Institute criminal proceedings against you in the Magistrates Court. On conviction in the Magistrates Court this may lead to a fine of £2,500 per advertisement and a daily charge of up to £250 per day during which the advertisements remain in place after conviction.
- Apply for a review of your premises licence.



Russell Davey
Environmental Health
Regulation & Enforcement
PO Box 16978
Birmingham
B2 2AX

The Place Directorate

I look forward to your full co-operation in ensuring that the problem is resolved and should you wish to discuss this letter further please contact me directly. If you are unclear as to the potential implications of allowing the illegal advertising practice to continue I would strongly advise that you seek legal advice.

Yours faithfully

Russell Davey



Appendix 2

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

**Application for the review of a premises licence or club premises certificate under the
Licensing Act 2003**

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 this 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.
You may wish to keep a copy of the completed form for your records.

I GARETH MOORE
(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club
premises certificate under section 87 of the Licensing Act 2003 for the premises described in
Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
AMUSEMENT 13 16 KENT STREET	
Post town	Post code (if known)
BIRMINGHAM	BS 6RD

Name of premises licence holder or club holding club premises certificate (if known)
EMARE STAR LTD.

Number of premises licence or club premises certificate (if known)

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible
authority (please read guidance note 1, and complete (A)
or (B) below)



2) a responsible authority (please complete (C) below)



3) a member of the club to which this application relates
(please complete (A) below)



(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr ☐

Mrs ☐

Miss ☐

Ms ☐

Other title
(for example, Rev)

CLLR

Surname

MOORE

First names

GARETH

I am 18 years old or over

Please tick ✓ yes

☐

Current postal
address if
different from
premises
address

C/O THE COUNCIL HOUSE
VICTORIA SQUARE

Post town

BIRMINGHAM

Post Code

B1 1BB

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

Please state the ground(s) for review (please read guidance note 2)

This review is submitted as the premises in question are operating in breach of the Licensing Objectives for Public Safety and Prevention of Public Nuisance, as well as the Council's Statement of Licensing Policy.

The premises are associated with and has permitted fly-posting to take place within the City of Birmingham, promoting events which have taken place at the premises. This fly-posting has taken place at various locations around the City, with posters being attached to railings, traffic lights and other street furniture to promote events. **This has happened on multiple occasions.**

Fly-posting is a major problem for the Council, for not only is it a visual nuisance, but has cost associated with it for the removal of the placards. The placards often remain in place for a long period of time, including after the event which they were advertising, adding to this visual nuisance. The prevalence of such posters at traffic junctions and on pedestrian crossings creates a public safety concern, as this can cause a distraction and obscure pedestrians or other vehicles. This has also made photographing the placards difficult due to them not being easily accessible. These safety concerns are supported by Amey, the Council's highways maintenance contractor who have made the following statement:

"Unauthorised attachments (such as placards and advertising on lighting columns or guardrails) are a serious safety issue as they can obstruct sight lines for both vehicles and pedestrians, particularly at busy road junctions. Additionally these attachments distract drivers and can cause them to slow down or even stop to read them which presents a significant road safety risk."

Amey are proactively working with Birmingham City Council Environmental Enforcement Team as part of the Cleaner Streets initiative to try to stop this illegal activity." Eddie Fellows, Highway Network Director – Amey

Included is statistical information showing the extent of the fly-posting problem in Birmingham, which has increased in recent years, and also how many wards across the City are not meeting the Council's target. These premises, by permitted fly-posting to take place, are contributing to this problem on a regular basis.

Appendix 1 is information provided by Amey showing the number of placards that have been removed by ward between January 2014 and June 2016.

Appendix 2 is the 2015/2016 street cleansing data from Birmingham City Council, which includes a section on fly-posting and provides a breakdown by Ward. This information is from 31st May 2016.

The Council's Statement of Licensing Policy makes it clear what is expected from licensed premises at 20.7 in relation to Fly-posting:

Fly posting and Promotional Material

20.7.1 As a leading entertainment centre Birmingham often faces the widespread problem of illegal or nuisance fly posting, and littering from promotional material. This can have an impact on the prevention of public nuisance objective and the prevention of crime and disorder objective within the Licensing Act 2003.

20.7.2 Existing legislation seeks to address this problem, however, it often proves ineffective in preventing this type of nuisance advertising. The Council is also concerned that some licence holders leave the advertising of regulated entertainment to events promoters and then use this to argue that they are not

responsible for any illegal fly posting which occurs.

20.7.3 The Council expects responsible licence holders to ensure the licensing objectives are properly promoted when advertising regulated entertainment at their premises. For this reason it considers licence holders should outline in their operating schedules the steps to be taken to make sure that advertising of licensable activities does not cause nuisance or result in criminal offences give rise to crime and disorder.

20.7.4 Where they are engaged, Premises Licence Holders are encouraged to have explicit agreements or contracts with named individuals or companies used to promote events to address the issue of fly posting and littering from promotional material; and to maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority or Authorised Officer on request. Where appropriate and where consistent with the applicant's operating schedule the Council will impose conditions to this effect when its discretion to do so has been engaged.

It is clear that these premises are not complying with the Statement of Licensing Policy for fly-posting continues to occur regularly.

On this basis, I ask for the Licensing Authority to revoke the premises licence on the grounds of Public Safety and Prevention of Public Nuisance Licensing Objectives.

Please provide as much information as possible to support the application (please read guidance note 3)

An event was advertised in July 2016 which saw widespread placards put up on the A5127. This was referred to the Southside BID Manager to be passed onto the premises. The placards were removed the following day and so it was not possible for photographs to be taken.

Photos 1 to 10 – Taken 14th September 2016 at the Junction of Bristol Road and Belgrave Middleway.

These photographs are just a sample of some of the placards that have been put up in Birmingham to promote three separate events at these premises in 2016. These placards are numerous in number to dominate the locations where they are put up.

Other locations where the photographed placards can be found include other locations on Bristol Road, Bath Row, Roundabout at Summer Hill Road and Parade, plus others.

Please tick ✓ yes

Have you made an application for review relating to the premises before

☐

If yes please state the date of that application

Day		Month		Year			
1	1	1	1	1	1	1	1

If you have made representations before relating to the premises please state what they were and when you made them

yes

Please tick ✓

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☐
- I understand that if I do not comply with the above requirements my application will be rejected ☐

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature

Date

15/09/16

Capacity

COUNCILLOR

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.











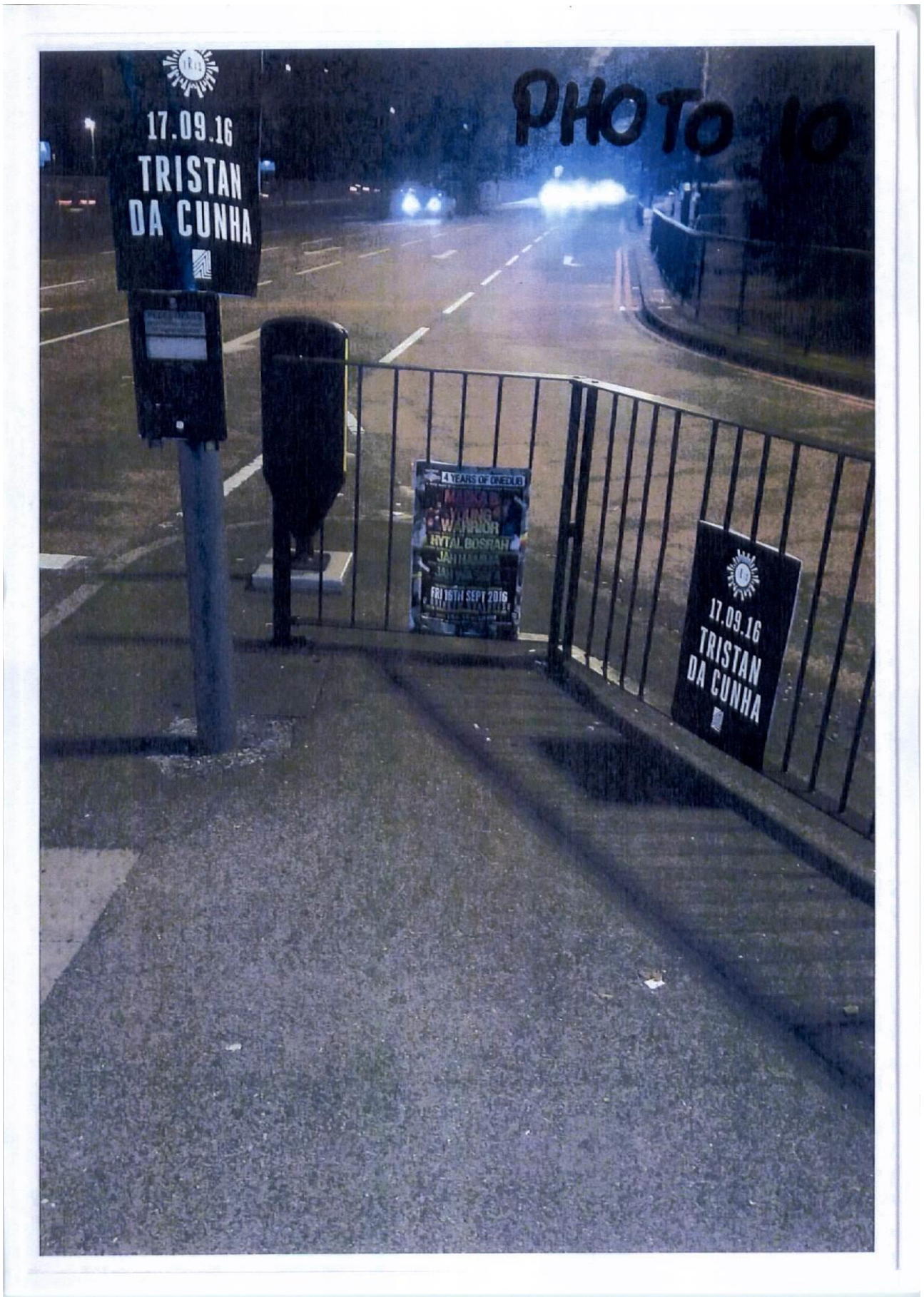




PHOTO 8







Ward	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Total by Ward	
Acocks Green	0	1	12	0	0	6	0	0	0	38	0	2	0	97	0	0	0	0	0	0	0	0	0	8	0	2	0	2	0	0	170	
Aston	6	65	231	14	39	55	6	0	1	0	0	3	10	6	0	0	39	0	0	0	20	2	2	3	2	56	0	0	0	0	570	
Bartley Green	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Billesley	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	
Bordesley Green	0	0	0	1	0	0	1	0	1	12	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	16
Bournville	0	4	3	0	2	0	0	0	0	0	0	0	1	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	56	
Brandwood	0	0	0	0	0	0	0	0	1	0	0	2	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6	
Edgbaston	0	0	50	2	0	4	0	1	1	0	0	0	1	0	1	0	56	0	0	0	47	0	0	1	41	1	1	0	0	0	208	
Erdington	0	0	26	40	12	0	42	30	46	0	10	0	2	1	0	1	0	26	0	5	3	0	0	0	0	0	0	0	0	0	469	
Hall Green	0	0	0	0	0	0	0	0	0	2	0	0	0	2	0	2	0	1	0	2	1	0	0	0	0	0	0	0	0	0	239	
Handsworth Wood	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	14	
Harborne	0	0	20	0	0	0	2	0	0	0	1	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	39	
Hodge Hill	0	0	2	4	0	0	5	0	40	1	3	0	1	0	12	0	0	0	0	1	0	0	4	0	0	0	0	0	0	0	76	
Kings Norton	0	4	1	7	0	0	0	0	1	0	0	0	0	0	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	23	
Kingsstanding	0	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	15	
Ladywood	10	2	136	14	1	0	10	3	1	2	7	1	9	2	0	0	0	5	0	84	1	1	0	0	0	0	0	0	0	0	0	335
Longbridge	0	4	3	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	11	
Lozells and East Handsworth	24	0	0	0	23	3	0	1	0	0	3	0	4	0	0	0	2	1	0	0	0	0	0	0	0	0	0	0	0	0	65	
Moseley and Kings Heath	0	0	1	0	0	0	1	0	0	1	0	0	2	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	12
Nechells	1	45	27	38	32	5	0	10	42	0	0	0	1	1	3	1	9	88	33	3	54	2	1	3	1	32	13	20	67	0	533	
Northfield	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	11	
Oscott	0	48	0	0	0	6	0	2	30	10	29	0	0	12	0	101	12	0	0	0	0	0	0	0	0	0	0	0	0	0	381	
Perry Barr	0	10	0	23	0	8	0	30	0	8	0	32	0	14	0	5	26	0	0	16	23	4	0	0	0	0	0	0	0	0	199	
Quinton	0	0	0	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Selly Oak	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	35	
Shard End	0	0	21	15	10	24	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	75	
Sheldon	0	0	0	3	0	8	0	0	1	0	0	0	2	0	0	7	0	0	0	6	0	0	0	0	0	0	0	0	0	0	34	
Soho	81	39	345	45	26	42	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	609
South Yardley	0	0	1	2	0	0	0	0	5	0	9	0	4	0	2	7	0	0	0	34	1	0	0	0	0	0	0	0	0	0	0	114
Sparkbrook	0	5	10	8	0	0	0	0	0	0	1	0	1	1	1	0	1	70	1	0	0	0	0	0	1	0	56	0	0	0	4	161
Springfield	0	2	0	2	0	0	21	0	1	1	2	0	0	3	2	1	1	10	5	4	2	4	0	1	2	3	3	0	0	0	0	74
Stechford and Yardley North	0	7	5	0	20	32	0	0	0	0	7	0	41	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	143
Stockland Green	0	0	0	48	0	100	17	21	1	0	11	5	1	10	1	4	13	0	0	0	0	0	0	0	0	0	0	0	0	0	232	
Sutton Four Oaks	0	0	4	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7	
Sutton New Hall	0	0	0	1	0	5	0	0	16	0	0	17	0	1	0	0	0	0	24	0	2	0	10	1	0	0	0	0	0	0	0	78
Sutton Trinity	0	0	0	16	0	0	0	0	0	0	2	0	33	1	0	10	0	0	0	0	0	0	9	2	2	0	4	0	0	0	79	
Sutton Vesey	9	0	0	1	0	0	3	13	48	10	3	210	0	1	41	4	1	19	0	6	11	7	1	1	6	50	0	0	0	0	445	
Tyburn	0	5	10	0	1	0	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	145	
Washwood Heath	0	0	0	1	0	2	0	0	1	0	15	0	0	16	1	0	157	0	0	0	0	0	0	0	0	0	0	0	0	0	202	
Weoley	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	

2015/16 street cleansing inspection performance

Ward (date in brackets denotes start of two-day inspection)	Litter			Fly-posting		
	2015/16	2014/15	2013/2014	2015/16	2014/15	2013/2014
Acoccks Green	3.57	9.29	8.57	0.00	0.71	0.71
Aston	5.71	11.43	12.86	3.57	1.43	4.29
Bartley Green	2.14	4.29	5.00	0.71	0.71	0.71
Billesley	5.00	0.71	1.43	0.71	0.71	0.71
Bordesley Green	11.43	14.29	10.00	4.29	2.86	2.14
Bournville	3.57	0.71	2.14	0.71	0.71	5.00
Brandwood	7.86	2.14	1.43	1.43	0.71	0.00
Edgbaston	2.14	2.14	4.29	6.43	0.71	0.00
Erdington	7.14	6.43	5.71	2.14	0.71	1.43
Hall Green	6.43	2.14	1.43	6.43	2.14	2.86
Handsworth Wood	12.86	7.14	6.43	2.14	0.00	2.14
Harborne	2.86	0.00	0.00	2.14	0.71	1.43
Hodge Hill	5.00	9.29	8.57	1.43	3.57	2.14
Kings Norton	7.14	4.29	1.43	1.43	1.43	0.00
Kingstanding	16.43	5.00	4.29	0.00	1.43	2.14
Ladywood	5.00	4.29	2.14	8.57	2.86	3.57
Longbridge	10.00	2.14	1.43	2.86	5.00	0.71
Lozells & East Handsworth	22.86	12.14	8.57	6.43	4.29	2.14
Moseley & Kings Heath	0.00	2.86	5.00	0.71	2.86	2.14
Nechells	13.57	9.29	8.57	5	2.14	2.14
Northfield	5.71	1.43	4.29	0.71	0.00	0.00
Oscott	7.14	5.00	3.57	1.43	0.00	0.71
Perry Barr	9.29	5.71	4.29	3.57	2.14	0.71
Quinton	7.14	2.86	0.71	0.71	0.00	0.71
Selly Oak	5.00	1.43	0.71	1.43	0.00	1.43
Shard End	0.71	4.29	5.00	5.71	2.14	1.43
Sheldon	1.43	2.86	3.57	0.71	0.71	1.43
Soho	14.29	7.14	7.14	4.29	3.57	2.14
South Yardley	17.14	3.57	1.43	5.00	2.86	0.00
Sparkbrook	8.57	18.57	14.29	7.14	7.86	2.86
Springfield	12.14	9.29	5.00	3.57	1.43	0.71
Stechford & Yardley North	5.71	4.29	2.86	4.29	3.57	8.57
Stockland Green	5.00	7.14	6.43	0.71	2.14	0.71
Sutton Four Oaks	0.71	1.43	0.71	1.43	0.71	0.00
Sutton New Hall	1.43	1.43	0.71	0.00	1.43	1.43
Sutton Trinity	5.00	1.43	2.86	0.00	0.00	0.00
Sutton Vesey	1.43	2.14	5.00	0.00	2.14	2.14
Tyburn	10.00	6.43	3.57	4.29	1.43	2.86
Washwood Heath	6.43	17.14	7.86	1.43	2.86	0.71
Weoley	6.43	1.43	2.14	1.43	1.43	0.71
Target (percentage of unsatisfactory inspected sites)	5	5	3.95	1	1	1
% performance of inspected wards below target	57.50	37.50	52.50	67.50	60.00	55.00

Note 1: 70 sites are inspected in each ward to reach the figures reported

Note 2: The Wards with no figures are scheduled to be inspected before the end of the 2015/16 financial year

Note 3: All 40 Wards are inspected once annually. This is currently under review, with a view to increasing the frequency

Appendix 3

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LICENSING ACT 2003

PREMISES LICENCE

Premises Licence Number:

2047 / 7

Part 1 - Premises details:

Postal address of premises, or if none, ordnance survey map reference or description Amusement 13 16 Kent Street Digbeth	
Post town: Birmingham	Post Code: B5 6RD
Telephone Number:	

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

B	Films
E	Live music
F	Recorded music
G	Performances of dance
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

Monday - Saturday	10:00 - 06:00	B ,E ,F ,G ,M3
	23:00 - 05:00	L
Sunday	12:00 - 06:00	B ,E ,F ,G ,M3
	23:00 - 05:00	L

New Year's Eve - from end of permitted hours to start of permitted hours on the following day.

The Licence Holder will give the Police 28 days notice in writing of any risk event to be held at the premises.

The opening hours of the premises

Monday - Saturday	10:00 - 06:00
Sunday	12:00 - 06:00

New Year's Eve - from end of permitted hours to start of permitted hours on the following day

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

On and Off Supplies

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Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Empire Star Limited C/O TS Patara and Co Accountants 352 Bearwood Road	
Post town: Smethwick	Post Code: B66 4ET
Telephone Number:	
Email	

Registered number of holder for example company number or charity number (where applicable) 3392309

Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Mr Luke Toon	
Post town:	Post Code:
Telephone Number:	

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	Issuing Authority

Dated 02/10/2015

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 $P = D + (D \times V)$, 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.

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(3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.

(4) Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendation made: (a) By the British Board of Film Classification (BBFC), where the film has been classified by that Board, or (b) By the Licensing Authority where no classification certificate has been granted by the BBFC, or, where the licensing authority has notified the licence holder that section 20(3)(b) (s74(3)(b) for clubs) of the Licensing Act 2003 applies to the film.

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

Embedded Restrictions

There was no application to remove any of the embedded restrictions applicable to this licence under the old licensing regime. Those embedded restrictions are detailed below. Licensable activities may continue beyond the times specified in the embedded restrictions up to the times the premises licence authorises the carrying out of licensable activities.

Alcohol shall not be sold or supplied except during permitted hours. In this condition, permitted hours means: a. On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 11 a.m. to 11 p.m. b. On Sundays, other than Christmas Day or New Year's Eve, 12 noon to 10.30 p.m. c. On Good Friday, 12 noon to 10.30 p.m. d. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m. e. On New Year's Eve, except on a Sunday, 11 a.m. to 11 p.m. f. On New Year's Eve on a Sunday, 12 noon to 10.30 p.m. g. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day, which would be 11.00 a.m. if New Year's Day falls on a weekday or 12 noon if a Sunday. The above restrictions do not prohibit: (a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel; (b) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises; (c) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered; (d) the sale of alcohol to a trader or club for the purposes of the trade or club; (e) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces; (f) the taking of alcohol from the premises by a person residing there; or (g) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or (h) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

The sale and supply of intoxicating liquor shall be restricted to:

A. All members (including full, associate and honorary members) of the club duly appointed in accordance with the rules of the club.

B. Bona fide guests of such members admitted in accordance with the rules.

C. Persons employed at the premises and any guest of the proprietor of the premises.

D. Non-members admitted upon payment of a minimum fee of £1.00.

Maximum numbers permitted on the premises are 900 or such numbers as shall be agreed from time to time with the Fire Service and the Local Authority Surveyor. Notices to be displayed to this effect.

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This licence is granted subject to compliance with the conditions attached to the Public Entertainment Licence, previously issued in respect of these premises, as detailed in document reference number: PEL4.6 (copies of which are available upon request from the Licensing Section)

Where the number of children attending the entertainment exceeds 100 the licensee shall ensure the provisions of Section 12 of The Children and Young Persons Act 1933 are complied with.

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Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

Regulated entertainment is permitted to take place inside the premises only.

No adult entertainment is permitted at the premises.

The Licence Holder will give the police 28 days notice in writing of any risk event to be held at the premises.

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

Premises to install an I.D. scan machine to be used by the premises at their discretion every night the premises is open. The scan machine is to be used by the premises to challenge underage activity by scanning I.D. of those patrons who enter the premises who appear to be under age. The I.D. of the patrons who appear to be underage will be scanned through the machine and are to be recorded and retained for 31 days. A copy of those I.D's must be produced to any responsible authority upon request. The I.D scanning machine will be used when identified through a Risk Assessment, dependant on event and in consultation with West Midlands Police Licensing Department at Birmingham west & Central Police Station.

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

Maximum occupancy level:

- limited to 900 persons

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

No enforceable conditions identified from operating schedule.

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

No enforceable conditions identified from operating schedule.

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Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

Conditions below imposed by Committee following a Review hearing 22 January 2013 and subsequently modified 26 March 2013:-

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

Door Supervisors - Door supervisors working outside the venue to wear fluorescent coats/tabards. Door Supervisors inside the venue to wear hi-vis arm bands or waistcoats, displaying their SIA badges.

Door Supervisors - All Door Supervisors to sign on duty every time they work and to sign out when they finish. Signing in sheet to detail their full badge numbers. Premises to retain in a secure location, Door Supervisors' profiles, which contain proof of identity (other than SIA badge) and utility bill which must not be dated longer than 6 months ago. These must be available for inspection by the Police or Local Authority at any time. If any Door Supervisors leave the premises, the profile will be retained by the premises for at least three months, following their departure before returning the profile to the door company.

CCTV - Venue must employ an external door company.

CCTV - The premises will have a CCTV system operating to the satisfaction of West Midlands Police at Steelhouse Lane Police Station. The CCTV must be working at all times when the premises are open and be recording. The recordings must be kept for a period of 31 days. CCTV images to be made available to any Responsible Authority immediately upon request. When using any mobile or personal camera, any footage also to be kept for 31 days and made available to any Responsible Authority upon request.

New Promoters/New Events - Risk assessments to be completed for any new promoters or new events using the venue. A copy of every new Risk Assessment to be forwarded and agreed with West Midlands Police, at Steelhouse Lane Police Station Licensing Department. Any event involving an outside promoter or event other than a standard night West Midlands Police will be given 28 days notice. The venue to arrange a meeting with the promoter and the Licensing Department at Steelhouse Lane Police Station, a minimum of 28 days before the event. The Licensing Department at Steelhouse Lane Police Station retain the right to veto any such event if any of the four licensing objectives have/are likely to be breached

Closing Time - If venue wishes to go past 0400hrs for any licensable activity, then the venue must give West Midlands Police at Steelhouse Lane Licensing Department, at least 28 days notice together with a Risk Assessment. West Midlands Police to have a power of veto over any licensable activity past 0400hrs.

Drugs Policy - Drugs policy to be in place in the premises, with a copy supplied to West Midlands Police.

Incident Book - Incident Book to be in operation, to record all incidents within or on the curtilage of the premises. This book is to be used for all events irrespective of whether any emergency services are called. Incident book to be made available upon request to any Responsible Authority, for inspection.

Search Policy - Premises to operate a search policy for all customers entering the premises. Search policy to be detailed in each Risk Assessment.

Lost and Found - Premises to operate a Lost and Found Property Policy, with a copy supplied to Licensing Department at Steelhouse Lane Police Station.

Venue Capacity - The maximum capacity of the premises to be as per the Fire Risk Assessment and the number to be displayed clearly near to the front door of the premises.

Risk Assessment - Venue to provide a standard operating risk assessment for each night of the week, to include door staff number and deployment plan if required.

Events - Venue to provide in writing, a month in advance, a list of all events to the Licensing Department at Steelhouse Lane Police Station.

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Training - Venue to maintain training records for all staff. These records to be made available upon request to any Responsible authority.

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

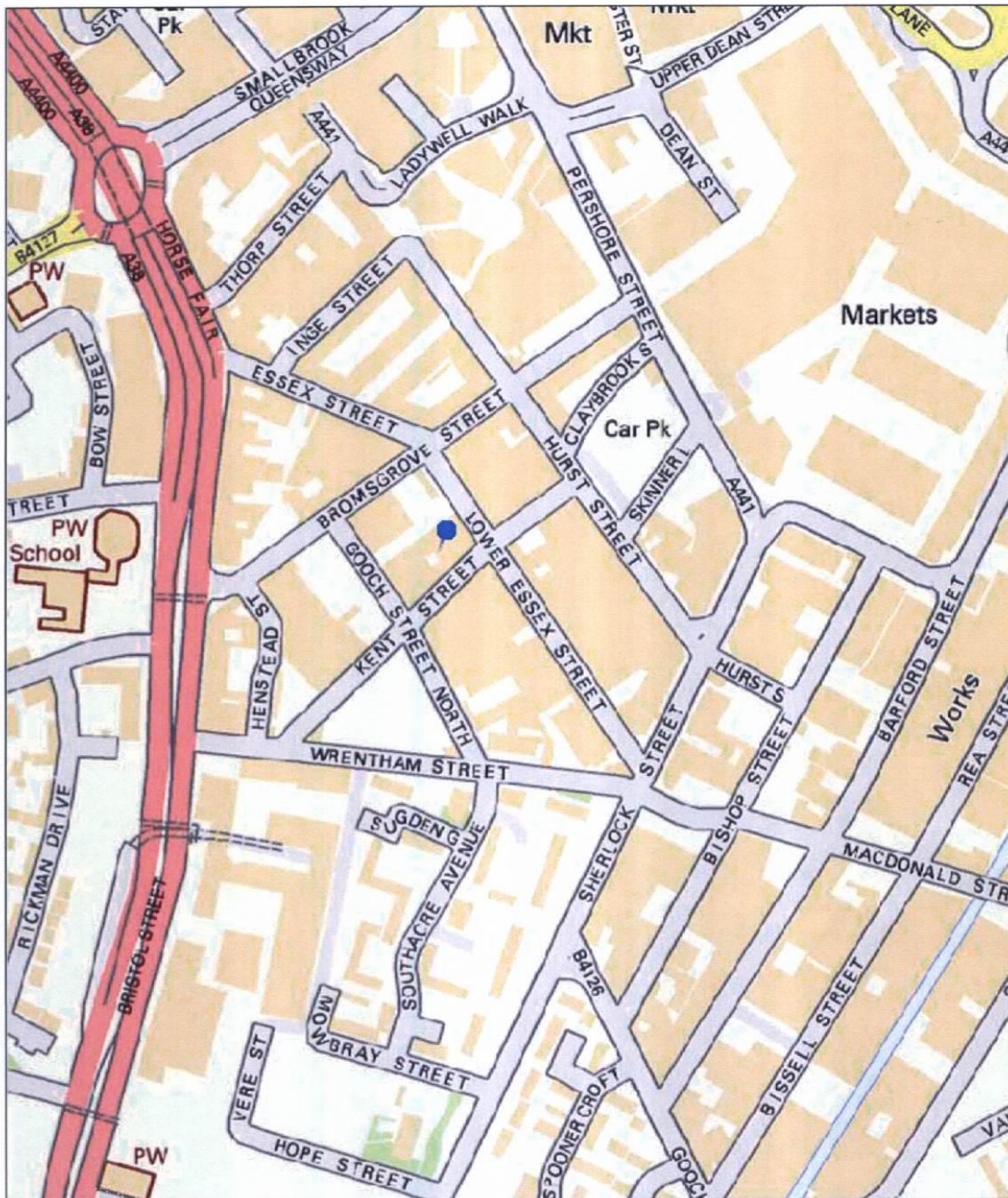
Children - Children are prohibited from the premises at all times.

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Annex 4 – Plans

The plan of the premises with reference number **92850-2047/7** (drawing numbers 302 and 05582) which is retained with the public register kept by Birmingham City Council and available free of charge for inspection by appointment only. Please ring the Licensing Section on 0121 303 9896 to book an appointment.

Appendix 4



Map Created By:

Notes

Date of Map Creation: 25/10/2016



Scale:
1:4,000

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Map Created By:
Date of Map Creation: 25/10/2016

Notes



Scale:
1:1,250

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BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Wednesday 9th November 2016
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	The Rainbow Live Music Venue, 29 Lower Trinity Street, Digbeth, Birmingham, B9 4AG
Ward affected:	Nechells
Contact Officer:	David Kennedy, Principal Licensing Officer, 0121 303 9896, licensing@birmingham.gov.uk

1. Purpose of report:
To consider an application to review a Premises Licence.

2. Recommendation:
To consider and determine the review application.

3. Brief Summary of Report:
Review application received on 15 th September 2016 from Councillor Gareth Moore in respect of The Rainbow Live Music Venue, 29 Lower Trinity Street, Digbeth, Birmingham, B9 4AG. A representation has been received Environmental Health, 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.

<p>5. Relevant background/chronology of key events:</p> <p>Councillor Gareth Moore applied on 15th September 2016 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for The Rainbow Live Music Venue, 29 Lower Trinity Street, Digbeth, Birmingham, B9 4AG.</p> <p>A representation has been received from Environmental Health, as a responsible authority. See Appendix 1.</p> <p>Review application is attached, see Appendix 2.</p> <p>The Premises Licence is attached at Appendix 3.</p> <p>Site location plans are attached at Appendix 4.</p> <p>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.</p> <p>The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -</p> <ul style="list-style-type: none"> a. The prevention of crime and disorder; b. Public safety; c. The prevention of public nuisance; and d. The protection of children from harm.
<p>6. List of background documents:</p> <p>Copy of the representation as detailed in Appendix 1 Review Application Form, Appendix 2 Copy of Premises Licence, Appendix 3 Site Location Plans, Appendix 4</p>
<p>7. Options available</p> <p>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 No Action</p> <p>Where the authority takes a step to modify conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.</p>



**Formal representation on behalf of Environmental Health:
Section 51 review for a premises licence
The Rainbow Live Music Venue, 29 Lower Trinity Street, Birmingham, B9 4AG**

Recommendation

This report recommends conditions to be added to the premises licence.

Introduction

I am Russell Davey, Environmental Health Officer, employed by Birmingham City Council (the "BCC"). I am acting as a representative of Environmental Health, having been advised by the City Council's Licensing Section that Cllr Gareth Moore had requested a review of The Rainbow Live Music Venue's licence. As part of the review of the above premises, I am formally raising representation from Environmental Health under the duty for the promotion of the prevention of public nuisance and the prevention of crime and disorder.

Background

The matters referred to in this document are around the levels of fly-posting in the city which are associated and/or commissioned by The Rainbow Live Music Venue; and to which they gain free advertising and/or pecuniary advantage by this activity. Flyposting is a public nuisance and illegal and therefore a crime.

There is no formal definition of fly-posting, it is a colloquialism for illegal adverts and may consist of the display of advertising material on buildings and street furniture without the consent of the owner. This is contrary to the provisions of the Town and Country Planning Act 1990, the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the Highways Act 1980.

BCC has had ongoing issues for a number of years with regards to illegal flyposting for events at The Rainbow Live Music Venue, 29 Lower Trinity Street, Digbeth, Birmingham, B9 4AG. During this time the Premises Licence Holder and Designated Premises Supervisor have changed on numerous occasions. The comments in this document therefore relate to correspondence with the current premises licence holder, Bow Leasehold Ltd. The sole director of this company is Richard Mc Gee who is also the Designated Premises Supervisor (DPS) for the premises. Richard Mc Gee has been the DPS since 23rd July 2015.

The City Council have used a range of interventions in order to try and prevent the illegal advertising. Such interventions have ranged from written warnings to inviting the company to enter into voluntary undertaking with BCC with regards to illegal advertising. Despite these measures illegal advertising has continued for events at The Rainbow Live Music Venue.

History of flyposting associated with The Rainbow Venues

On 1st June 2015 a letter was sent to Bow Leashold Ltd requesting that the company remove all illegal advertising for events at their premises from City Council street furniture and invited them to enter into a voluntary undertaking with BCC agreeing not to cause, suffer, permit or assist in the display of advertisements within Birmingham other than those authorised in accordance with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. A copy of this letter is shown in appendix 1.

On the 23rd March 2016 the City Council's PFI highways contractor, AMEY, removed illegal advertisements for an event called DJ Marky, Friday 25th March at the Rainbow from City Council street furniture. The website Skiddle shows this event as having taken place at The Rainbow Venues in Birmingham. A photograph illustrating one of these posters is shown in appendix 2.

On or around 1st May 2016 the City Council's Pest Control Department removed 42 posters from City Council street furniture relating to an event called Do Not Sleep, Bank Holiday Sunday 1st May, The Textile Factory, Birmingham. The posters contained the logo for The Rainbow Venues. A photograph illustrating one of these posters is shown in appendix 3.

On or around 27th August 2016 the City Council's Pest Control Department removed 18 posters for an event called Summer Chapter, Saturday 27th to Sunday 28th August from City Council street furniture. A photograph illustrating one of these posters is shown in appendix 3.

On 12th September 2016 a photograph was taken of the poster advertising 4 years of One Dub, Friday 16th September 2016 at the Rainbow Warehouse. A photograph illustrating this poster is shown in appendix 4.

Problems with flyposting

Flyposting is illegal. Flyposting also makes an area appear run down, feel uncared for and even threatening. In November 2001, Camden Council commissioned MORI

to determine how people felt about the quality of their street environment. One in ten respondents indicated that fly-posting made them feel uncomfortable, long with issues such as a lack of Police, graffiti and illegal street trading. Flyposting, in particular placarding, also affects sight lines for drivers and pedestrians using the highway. Concern about fly-posting also scored more highly than concern about young people hanging around; gangs; drug use; stealing; drunks; muggers or traffic (source Keep Britain Tidy). Flyposting is also shown to have a domino effect, causing similar businesses to follow suit and advertise their events in an attempt not to lose business to the first offending premises.

The removal of illegal advertising puts an additional financial burden on BCC. Flyposting can have a severe effect on the "Local Environmental Quality" as illegal advertisements are often left in-situ after the event or promotion has ended leading to a litter problem and making an area look run down. This can lead to an increased perception of crime by residents and visitors.

Posters put up by way of plastic ties on one side of a lamppost tend to be fewer in number as they are more expensive to produce. This modus operandi of advertising is problematic to remove and often results in the cable ties being left behind long after the posters have been removed. Cardboard advertisements are cheaper to produce and as a result tend to be printed in significantly higher volumes. Posters are usually displayed by stapling them back to back around street furniture. Due to the volumes of posters produced; this form of illegal advertising is more prolific and tends to be concentrated around major traffic junctions where a large proportion of street furniture can be affected. As a result, one company's advertisements can have a significant detrimental impact on the appearance of the street scene. Where cardboard posters are left in situ for any time, they quickly start to degrade making their removal more difficult.

Statement of Licensing Policy 2015

As part of the 2015 review of BCC's Statement of Licencing Policy, the section on flyposting has been re-written and now explicitly outlines premises licence holders responsibilities in controlling illegal advertising. It also advises about good practice in controlling illegal advertising. An extract from the 2015 Statement of Licensing Policy is shown below:

"20.7 Fly posting and Promotional Material

20.7.1 As a leading entertainment centre Birmingham often faces the widespread problem of illegal or nuisance fly posting, and littering from promotional material. This can have an impact on the prevention of public nuisance objective and prevention of crime and disorder objective within the Licensing Act 2003.

“20.7 Fly posting and Promotional Material

20.7.1 As a leading entertainment centre Birmingham often faces the widespread problem of illegal or nuisance fly posting, and littering from promotional material. This can have an impact on the prevention of public nuisance objective and prevention of crime and disorder objective within the Licensing Act 2003.

20.7.2 Existing legislation seeks to address this problem; however, it often proves ineffective in preventing this type of nuisance advertising. The Council is also concerned that some licence holders leave the advertising of regulated entertainment to events promoters and then use this to argue that they are not responsible for any illegal fly posting which occurs.

20.7.3 The Council expects responsible licence holders to ensure the licensing objectives are properly promoted when advertising regulated entertainment at their premises. For this reason it considers licence holders should outline in their operating schedules the steps to be taken to make sure that advertising of licensable activities does not cause nuisance or give rise to crime and disorder.

20.7.4 Where they are engaged, Premises Licence Holders are encouraged to have explicit agreements or contracts with named individuals or companies used to promote events to address the issue of fly posting and littering from promotional material; and to maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority or Authorised Officer on request. Where appropriate, and where consistent with the applicant's operating schedule the Council will impose conditions to this effect when its discretion to do so has been engaged.”

Prevention of Public Nuisance

Local Authorities are responsible for enforcing provisions around illegal advertisements and have to remove flyposting from public land and city council street furniture as they are “the owners”. Attempts have also been made by BCC to work with the owners of private property to help maintain and improve local environmental quality which often comes at a cost to the land owner. As part of this work attempts have been made to engage with licenced premises to reduce the amount of illegal flyposting that is taking place in the City and particularly with regards to The Rainbow Live Music Venue.

Clearly, as can be seen from the chronology provided, the premises licence holder has made no attempts to control flyposting as part of the prevention of public nuisance licensing objective but instead has contributed to a reduction of the living and working amenity of those working and residing in the area of the licensed premises as recognised in paragraph 2.15 of the Home Office Guidance issued under s.182 of LA 2013:

Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises.

In addition, flyposting is an illegal and therefore it is unreasonable for The Rainbow Live Music Venue to have not undertaken any meaningful works to prevent the repetition of the offence of illegal advertising in the City.

Environmental Health requests, that where the Licensing Sub Committee considers it appropriate and its discretion is engaged, the following conditions relating to the control of fly posting are inserted into the licence. This will ensure that venue clearly prohibits all fly posting in their contract terms with others; and will overtly advise the premises licence holder on their duty to prevent public nuisance and reduce crime associated with the running of the business.

Recommended Conditions

1. The Premises Licence Holder shall ensure that their premises are not in any way promoted by the use of illegal fly-posting or unauthorised advertisements attached to street furniture.
2. The Premises Licence Holder shall ensure that agreements/contracts with promoters for the use of their premises or for events to be held at their premises prohibit the use of illegal fly-posting and/or advertisements attached to street furniture, and shall take all steps reasonable to enforce such agreement/contract terms. The Premises License Holder shall maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority on request.
3. The Premises Licence Holder shall take all reasonable precautions and exercise all due diligence to ensure that no person/company promoting or providing entertainment on the premises, nor any person acting on behalf of any promoters, shall display in an unlawful manner advertisements promoting the entertainment or the premises, in particular:
 - a) no display of advertisements should take place on street furniture;
 - b) no display of advertisements should take place on premises or structures placed on, over, in or adjacent to the highway, unless the licensee has first obtained the written consent of the owner of the premises or structure. Such consent shall be shown to the Environmental Health on request.
4. The Premises Licence Holder shall remove any unlawful advertisements of events at their premises where they become aware of them or they are advised by

Birmingham City Council of an illegal advertisement being displayed. Such removal shall take place immediately within 48 hrs of receiving the said notice.

I confirm this is the formal response by Environmental Health as a responsible authority. It has been agreed with the Head of Environmental Health.

Lead Officer or review:

Signed

Russell Davey, Environmental Health Officer,



Reference: WK/007966218

Date: 1st June 2015

Bow Leasehold Ltd
160 High Street
Deritend
Birmingham
B12 0LD

Dear Sir or Madam

Re: Illegal advertising – Spotlight and Nextdoor

It has come to my attention that illegal advertisements for events at Spotlight and Nextdoor are continually being displayed across the City of Birmingham in contravention of the following legislation:

- Section 132 of the Highways Act 1980
- Regulation 30 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007
- Section 224 of the Town and Country Planning Act 1990

As a director of Bow Leasehold Ltd I take the view that you are liable for the conduct of your promoters in respect of any advertising for events at Spotlight and Nextdoor.

Consequently I am now requiring you to remove all existing unauthorised advertising (and we will assist you in identifying these). The legislation requires unlawful advertisements to be removed within 48 hours of them being brought to your attention, however, on this occasion we are willing to extend this to 7 days from today's date, i.e. by no later than Tuesday 8th June 2015. Due to the scale of the problem we are minded to seek a formal review of your licence under the Licensing Act 2003.

Furthermore I would invite you to sign the attached undertaking agreeing that you will not, either by yourself or by encouraging or instructing anyone else, to:

"Cause, suffer, permit or assist in the display of advertisements within the City of Birmingham other than those authorised in accordance with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007."

Furthermore, in the event of future promotions being advertised unlawfully you undertake to remove such advertisements within 48 hours of receipt of written notice from the City Council. Details of the promoter (full name, address and telephone



Russell Davey
Environmental Health
Regulation & Enforcement
PO Box 16978
Birmingham
B2 2AX

The Place Directorate

number) will be provided to the City Council on request, in addition to information already provided to West Midlands Police Licensing Team.

Should you not agree to the undertaking and you and/or your promoter continue to advertise unlawfully we put you on notice that proceedings will be commenced for injunctive relief under the above legislation.

So as to enable you sufficient time to take independent legal advice I would be grateful if the undertaking could be returned by no later than 15th June 2015.

Yours sincerely


Russell Davey

Between
Birmingham City Council
And
Bow leasehold Ltd

Undertaking

We Bow Leasehold Ltd hereby undertake, whether by ourselves, or by encouraging or instructing any other person from:

Causing, suffering, permitting or assisting in the display of advertisements within the City of Birmingham other than those authorised in accordance with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

Furthermore we hereby undertake to

Remove any existing unlawful advertising for Spotlight and Nextdoor as identified to us by Birmingham City Council within 5 days of Birmingham City Council bringing this to the attention of Bow Leasehold Ltd.

Remove any unlawful advertising for future promotions at Spotlight and Nextdoor as identified to us by Birmingham City Council within 48 hours of Birmingham City Council bringing this to the attention of Bow Leasehold Ltd. Provide Birmingham City Council with full contact details of the promoter of any unlawfully advertised event on written request.

Signed on behalf of

By

.....

.....
(print name)

Dated this day of

Appendix 2







Appendix 2

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

**Application for the review of a premises licence or club premises certificate under the
Licensing Act 2003**

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 this 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.
You may wish to keep a copy of the completed form for your records.

I GARETH MOORE

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club
premises certificate under section 87 of the Licensing Act 2003 for the premises described in
Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
THE RAINBOW VENUES 29 LOWER TRINITY STREET DIGBETH	
Post town	Post code (if known)
BIRMINGHAM	B9 4AG
Name of premises licence holder or club holding club premises certificate (if known)	
BOW LEASEHOLD LTD	
Number of premises licence or club premises certificate (if known)	

Part 2 – Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible
authority (please read guidance note 1, and complete (A)
or (B) below)



2) a responsible authority (please complete (C) below)



3) a member of the club to which this application relates
(please complete (A) below)



(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Other title (for example, Rev) **CLLR**

Surname

MOORE

First names

GARETH

I am 18 years old or over

Please tick ✓ yes



Current postal address if different from premises address

**c/o COUNCIL HOUSE
VICTORIA SQUARE**

Post town

BIRMINGHAM

Post Code

B1 1BB

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

This application to review relates to the following licensing objective(s)

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
--------------------------	-------------------------------------	-------------------------------------	--------------------------

Please state the ground(s) for review (please read guidance note 2)

This review is submitted as the premises in question are operating in breach of the Licensing Objectives for Public Safety and Prevention of Public Nuisance, as well as the Council's Statement of Licensing Policy.

The premises are associated with and has permitted fly-posting to take place within the City of Birmingham, promoting events which have taken place at the premises. This fly-posting has taken place at various locations around the City, with posters being attached to railings, traffic lights and other street furniture to promote events. **This has happened on multiple occasions.**

Fly-posting is a major problem for the Council, for not only is it a visual nuisance, but has cost associated with it for the removal of the placards. The placards often remain in place for a long period of time, including after the event which they were advertising, adding to this visual nuisance. The prevalence of such posters at traffic junctions and on pedestrian crossings creates a public safety concern, as this can cause a distraction and obscure pedestrians or other vehicles. This has also made photographing the placards difficult due to them not being easily accessible. These safety concerns are supported by Amey, the Council's highways maintenance contractor who have made the following statement:

"Unauthorised attachments (such as placards and advertising on lighting columns or guardrails) are a serious safety issue as they can obstruct sight lines for both vehicles and pedestrians, particularly at busy road junctions. Additionally these attachments distract drivers and can cause them to slow down or even stop to read them which presents a significant road safety risk."

Amey are proactively working with Birmingham City Council Environmental Enforcement Team as part of the Cleaner Streets initiative to try to stop this illegal activity." Eddie Fellows, Highway Network Director – Amey

Included is statistical information showing the extent of the fly-posting problem in Birmingham, which has increased in recent years, and also how many wards across the City are not meeting the Council's target. These premises, by permitted fly-posting to take place, are contributing to this problem on a regular basis.

Appendix 1 is information provided by Amey showing the number of placards that have been removed by ward between January 2014 and June 2016.

Appendix 2 is the 2015/2016 street cleansing data from Birmingham City Council, which includes a section on fly-posting and provides a breakdown by Ward. This information is from 31st May 2016.

The Council's Statement of Licensing Policy makes it clear what is expected from licensed premises at 20.7 in relation to Fly-posting:

Fly posting and Promotional Material

20.7.1 As a leading entertainment centre Birmingham often faces the widespread problem of illegal or nuisance fly posting, and littering from promotional material. This can have an impact on the prevention of public nuisance objective and the prevention of crime and disorder objective within the Licensing Act 2003.

20.7.2 Existing legislation seeks to address this problem, however, it often proves ineffective in preventing this type of nuisance advertising. The Council is also concerned that some licence holders leave the advertising of regulated entertainment to events promoters and then use this to argue that they are not

responsible for any illegal fly posting which occurs.

20.7.3 The Council expects responsible licence holders to ensure the licensing objectives are properly promoted when advertising regulated entertainment at their premises. For this reason it considers licence holders should outline in their operating schedules the steps to be taken to make sure that advertising of licensable activities does not cause nuisance or result in criminal offences give rise to crime and disorder.

20.7.4 Where they are engaged, Premises Licence Holders are encouraged to have explicit agreements or contracts with named individuals or companies used to promote events to address the issue of fly posting and littering from promotional material; and to maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority or Authorised Officer on request. Where appropriate and where consistent with the applicant's operating schedule the Council will impose conditions to this effect when its discretion to do so has been engaged.

It is clear that these premises are not complying with the Statement of Licensing Policy for fly-posting continues to occur regularly.

On this basis, I ask for the Licensing Authority to revoke the premises licence on the grounds of Public Safety and Prevention of Public Nuisance Licensing Objectives.

Please provide as much information as possible to support the application (please read guidance note 3)

Photo 1 – Taken on 28th April 2016 at the Junction of Chester Road and Sutton Road, Erdington. Other placards for this event visible on A5127

Photo 2 – Taken on 22nd August 2016 at Bristol Road, near to Sainsbury's, Selly Oak.

Photos 3 to 6 – Taken on 22nd August 2016 at Bristol Road, near to Junction with Wellington Road.

Photos 7 to 13 – Taken on 14th September 2016 at Junction of Bristol Road and Belgrave Middleway.

These photographs are just a sample of some of the placards that have been put up in Birmingham to promote three separate events at these premises in 2016. These placards are numerous in number to dominate the locations where they are put up.

Please tick ✓ yes

Have you made an application for review relating to the premises before

☐

If yes please state the date of that application

Day		Month		Year	
1	1	1	1	1	1

If you have made representations before relating to the premises please state what they were and when you made them

Please tick ✓

yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature

.....

Date

15/09/16

.....

Capacity

COUNCILLOR

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.







PHOTO 4





PHOTO 6



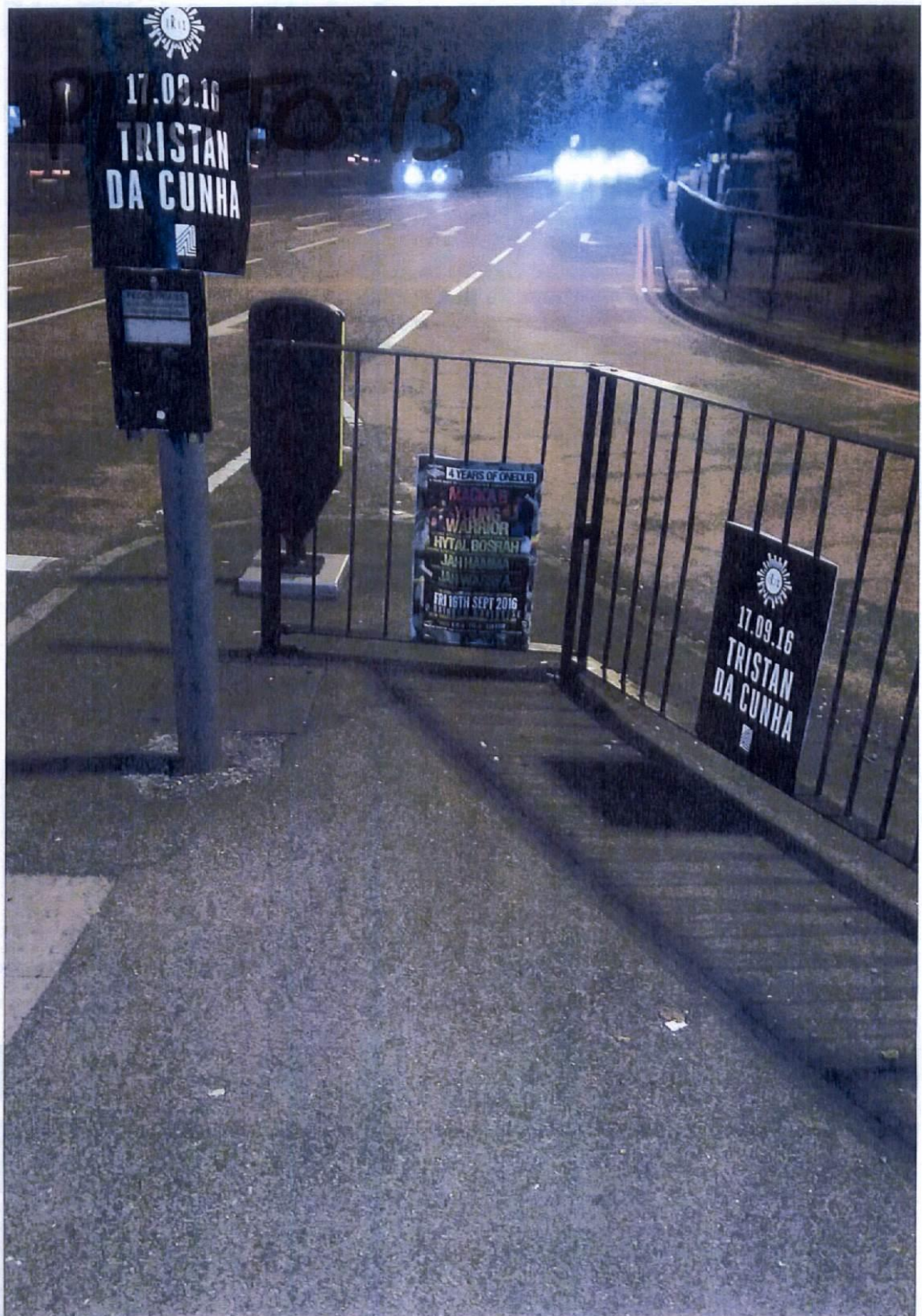












Ward	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	Oct-14	Nov-14	Dec-14	Jan-15	Feb-15	Mar-15	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Total by Ward		
Acocks Green	0	1	12	0	0	6	0	0	0	38	0	2	0	97	0	0	0	0	0	0	0	0	0	8	0	2	0	2	0	0	170		
Aston	6	65	231	14	39	55	6	0	1	0	0	3	10	6	0	0	39	0	0	0	20	2	2	3	2	66	0	0	0	0	570		
Bartley Green	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2		
Billesley	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Bordesley Green	0	0	0	1	0	0	1	0	1	12	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	16	
Bournville	0	4	3	0	2	0	0	0	0	0	0	0	0	1	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	56	
Brandwood	0	0	0	0	0	0	0	0	1	0	0	2	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6	
Edgbaston	0	0	50	2	0	0	4	0	1	1	0	0	0	1	0	1	0	56	0	0	47	0	0	1	1	41	1	0	0	0	0	208	
Erdington	0	0	0	21	0	28	99	0	37	0	2	2	0	3	57	2	103	0	28	0	5	10	3	64	0	5	0	0	0	0	0	469	
Hall Green	0	26	40	12	0	42	30	46	0	10	0	2	1	0	1	0	0	26	0	3	0	0	0	0	0	0	0	0	0	0	0	239	
Handsworth Wood	0	0	0	0	0	0	0	0	0	2	0	0	0	2	0	2	0	1	0	2	1	0	0	0	0	0	0	0	0	0	0	14	
Harborne	0	0	20	0	0	0	2	0	0	0	1	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	39	
Hodge Hill	0	0	2	4	0	0	5	0	40	1	3	0	1	0	12	0	0	0	0	1	0	0	4	0	0	0	0	0	0	0	0	76	
Kings Norton	0	4	1	7	0	0	0	0	1	0	0	0	0	0	0	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	23	
Kingsstanding	0	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	15	
Ladywood	10	2	136	14	1	0	10	3	1	2	7	1	9	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	335	
Longbridge	0	4	3	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	11	
Lozells and East Handsworth	24	0	0	0	23	3	0	1	0	0	3	0	4	0	0	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	65
Moseley and Kings Heath	0	0	1	0	0	0	1	0	0	1	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	12
Nechells	1	45	27	38	32	5	0	10	42	0	0	0	1	1	3	1	9	88	33	3	54	2	1	3	1	32	13	20	67	0	0	533	
Northfield	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	11	
Oscott	0	48	0	0	0	6	0	2	30	10	29	0	0	12	0	101	12	0	0	12	22	21	1	25	24	6	8	12	0	0	0	381	
Perry Barr	0	10	0	23	0	8	0	30	0	8	0	32	0	14	0	5	26	0	0	16	23	4	0	0	0	0	0	0	0	0	0	0	199
Quinton	0	0	0	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	
Selly Oak	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	35	
Shard End	0	0	21	15	10	24	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	1	0	0	0	0	0	0	0	0	0	75
Sheldon	0	0	0	3	0	8	0	0	1	0	0	2	0	0	0	7	0	0	0	6	0	0	0	0	0	0	0	0	0	0	0	0	34
Soho	81	39	345	45	26	42	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	609
South Yardley	0	0	1	2	0	0	0	0	5	0	9	0	4	0	2	7	0	0	0	34	1	0	0	0	0	0	0	0	0	0	0	0	114
Sparkbrook	0	5	0	10	8	0	0	0	0	0	1	0	1	1	1	0	0	1	70	1	0	0	0	0	1	0	56	0	0	0	0	0	161
Springfield	0	2	0	2	0	21	0	1	1	2	0	0	3	2	1	1	10	5	4	2	4	0	0	1	2	3	3	0	0	0	0	0	74
Stechford and Yardley North	0	7	5	0	20	32	0	0	0	0	7	0	41	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	143
Stockland Green	0	0	0	48	0	100	17	21	1	0	11	5	1	10	1	4	13	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	232
Sutton Four Oaks	0	0	4	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7	
Sutton New Hall	0	0	0	1	0	5	0	0	16	0	0	17	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	78
Sutton Trinity	0	0	0	16	0	0	0	0	0	0	2	0	33	1	0	10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	79
Sutton Vesey	9	0	0	1	0	0	3	13	48	10	3	210	0	1	41	4	1	19	0	6	11	7	1	1	6	50	0	0	0	0	0	0	445
Tyburn	0	5	10	0	1	0	1	0	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	145
Washwood Heath	0	0	0	1	0	2	0	0	1	0	15	0	0	16	1	0	157	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	202
Woolley	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	

2015/16 street cleansing inspection performance

Ward (date in brackets denotes start of two-day inspection)	Litter			Fly-posting		
	2015/16	2014/15	2013/2014	2015/16	2014/15	2013/2014
Acoccks Green	3.57	9.29	8.57	0.00	0.71	0.71
Aston	5.71	11.43	12.86	3.57	1.43	4.29
Bartley Green	2.14	4.29	5.00	0.71	0.71	0.71
Billesley	5.00	0.71	1.43	0.71	0.71	0.71
Bordesley Green	11.43	14.29	10.00	4.29	2.86	2.14
Bournville	3.57	0.71	2.14	0.71	0.71	5.00
Brandwood	7.86	2.14	1.43	1.43	0.71	0.00
Edgbaston	2.14	2.14	4.29	6.43	0.71	0.00
Erdington	7.14	6.43	5.71	2.14	0.71	1.43
Hall Green	6.43	2.14	1.43	6.43	2.14	2.86
Handsworth Wood	12.86	7.14	6.43	2.14	0.00	2.14
Harborne	2.86	0.00	0.00	2.14	0.71	1.43
Hodge Hill	5.00	9.29	8.57	1.43	3.57	2.14
Kings Norton	7.14	4.29	1.43	1.43	1.43	0.00
Kingstanding	16.43	5.00	4.29	0.00	1.43	2.14
Ladywood	5.00	4.29	2.14	8.57	2.86	3.57
Longbridge	10.00	2.14	1.43	2.86	5.00	0.71
Lozells & East Handsworth	22.86	12.14	8.57	6.43	4.29	2.14
Moseley & Kings Heath	0.00	2.86	5.00	0.71	2.86	2.14
Nechells	13.57	9.29	8.57	5	2.14	2.14
Northfield	5.71	1.43	4.29	0.71	0.00	0.00
Oscott	7.14	5.00	3.57	1.43	0.00	0.71
Perry Barr	9.29	5.71	4.29	3.57	2.14	0.71
Quinton	7.14	2.86	0.71	0.71	0.00	0.71
Selly Oak	5.00	1.43	0.71	1.43	0.00	1.43
Shard End	0.71	4.29	5.00	5.71	2.14	1.43
Sheldon	1.43	2.86	3.57	0.71	0.71	1.43
Soho	14.29	7.14	7.14	4.29	3.57	2.14
South Yardley	17.14	3.57	1.43	5.00	2.86	0.00
Sparkbrook	8.57	18.57	14.29	7.14	7.86	2.86
Springfield	12.14	9.29	5.00	3.57	1.43	0.71
Stechford & Yardley North	5.71	4.29	2.86	4.29	3.57	8.57
Stockland Green	5.00	7.14	6.43	0.71	2.14	0.71
Sutton Four Oaks	0.71	1.43	0.71	1.43	0.71	0.00
Sutton New Hall	1.43	1.43	0.71	0.00	1.43	1.43
Sutton Trinity	5.00	1.43	2.86	0.00	0.00	0.00
Sutton Vesey	1.43	2.14	5.00	0.00	2.14	2.14
Tyburn	10.00	6.43	3.57	4.29	1.43	2.86
Washwood Heath	6.43	17.14	7.86	1.43	2.86	0.71
Weoley	6.43	1.43	2.14	1.43	1.43	0.71
Target (percentage of unsatisfactory inspected sites)	5	5	3.95	1	1	1
% performance of inspected wards below target	57.50	37.50	52.50	67.50	60.00	55.00

Note 1: 70 sites are inspected in each ward to reach the figures reported

Note 2: The Wards with no figures are scheduled to be inspected before the end of the 2015/16 financial year

Note 3: All 40 Wards are inspected once annually. This is currently under review, with a view to increasing the frequency

BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003

PREMISES LICENCE

Premises Licence Number:

4367 / 3

Part 1 - Premises details:

Postal address of premises, or if none, ordnance survey map reference or description	
The Rainbow Live Music Venue 29 Lower Trinity Street Digbeth	
Post town:	Post Code:
Birmingham	B9 4AG
Telephone Number:	
Not Specified	

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

- | | |
|----|--|
| A | Plays |
| B | Films |
| C | Indoor sporting events |
| D | Boxing or wrestling entertainment |
| E | Live music |
| F | Recorded music |
| G | Performances of dance |
| H | Anything of similar description to that falling within (live music), (recorded music) or (performances of dance) |
| 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

Monday - Sunday	10:00 - 07:00	A ,B ,C ,D ,E ,F ,G ,H ,M3
	23:00 - 05:00	L
On 19th and 20th September 2015 and any anniversary of that date, on the occasion of the Rave Experiment.	12:00 - 12:00	A ,B ,C ,E ,F ,G ,H ,M3

The opening hours of the premises

Monday - Sunday	10:00 - 07:30
On 19th and 20th September 2015 and any anniversary of that date, on the occasion of the Rave Experiment.	12:00 - 12:00

BIRMINGHAM CITY COUNCIL

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

On and Off Supplies

BIRMINGHAM CITY COUNCIL

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Bow Leasehold Limited 160 High Street Deritend	
Post town: Birmingham	Post Code: B12 0LD
Telephone Number: Not Specified	
Email Not Specified	

Registered number of holder for example company number or charity number (where applicable) 09277167
--

Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Mr Richard McGee	
Post town:	Post Code:
Telephone Number:	

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	Issuing Authority

Dated 06/08/2015

David Kennedy
Principal 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 $P = D + (D \times V)$, 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 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

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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.

The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendation made: (a) By the British Board of Film Classification (BBFC), where the film has been classified by that Board, or (b) By the Licensing Authority where no classification certificate has been granted by the BBFC, or, where the licensing authority has notified the licence holder that section 20(3)(b) (s74(3)(b) for clubs) of the Licensing Act 2003 applies to the film.

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

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Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

The premises licence holder shall ensure there will be no encouragement of excessive drinking or irresponsible sale of cheap promotional drinks, and the number of Personal Licence holders on the premises when operational shall be at least two or such other number as is agreed from time to time with West Midlands Police.

The premises licence holder shall ensure that the operator will call a Safety Advisory Group meeting if appropriate to this venue and the operation and there is a power of veto of any event the SAG is not able to set conditions or operation which satisfies the licensing objectives. Any conditions set during the SAG meeting shall become licensing conditions for that event and they must be kept in writing on the premises during the event and made available for inspection by all statutory bodies and that both the DPS and/or a senior manager and the promoter if any, will be in attendance at the SAG meeting.

The premises licence holder shall ensure that if any adult entertainment is introduced to the premises, then it will only be done after giving at least 14 days' notice to the Police Authority. The Security levels at any event will be dependent on the risk assessment and such number as is agreed shall become a condition of the Premises Licence for that particular event through SAG process.

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

The Premises Licence Holder shall ensure a full month of events is supplied in writing to Licensing Department at Steelhouse Lane Police Station, a month in advance or such other period as may be agreed with West Midlands Police. If the premises use any new promoter for any event, then for the first event the Designated Premises Supervisor for the premises will arrange to meet Steelhouse Lane Police Station Licensing Department at least 28 days or lesser period before the first event, with risk assessments for the event. The premises will not hold any new events without the agreement of Steelhouse Lane Licensing Department. West Midlands Police to have a power of veto over any such event. Recommendations made to the Designated Premises Supervisor that satisfy the four licensing objectives will become conditions for that event on the premises licence.

If the Premises Licence holder wishes to operate past 04:00 hrs, the premises must inform the Licensing Department at Steelhouse Lane Police Station, in writing, a minimum of 28 days or lesser period in advance. West Midlands Police have a power of veto, if it's believed that any of the four Licensing objectives may be breached.

If the Premises Licence holder wishes to conduct any Licensable activity on the premises before 14:00 hrs, the premises must inform Licensing Department at Birmingham Central Police Station 28 days or lesser period in advance and West Midlands Police have a power of veto over any such event.

When the venue operates in conjunction with another premises, licensed or unlicensed, the premises must provide a minimum of 28 days or lesser period notice and if deemed necessary by West Midlands Police the event must be subject of the SAG process. Conditions arising from the SAG process to become conditions for that event.

The Premises Licence Holder shall ensure that a CCTV system is to be installed at the premises to the specification agreed with the Licensing Department at Steelhouse Lane Police Station. CCTV is to be operational whilst the premises are open and be recording continually. If a hard drive system is used the recordings are to be kept for minimum of 31 days. The CCTV images to be made available to any responsible authority immediately on request. Entrance and queuing area to be covered by CCTV.

The Premises Licence Holder will supply a risk assessment for all events held at the premises, including standard in house events, to include all security provisions. 28 days' or lesser period notice is required, unless otherwise agreed with West Midlands Police, Licensing Department at Steelhouse Lane Police Station. Included in risk assessment is a search policy which will reflect the event risk and Security deployment plan.

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The Premises Licence Holder shall ensure that continuous discussions between West Midlands Police Force, the appointed security/stewarding company and the event organisers will take place prior to and during the period that the Event is taking place to ensure that all means possible are employed to prevent crime and disorder. Operational plans will be drawn up between the Event organisers and the West Midlands Police Force taking into account the experience of previous events in this location.

The Premises Licence Holder will ensure that individuals who are drunk, disorderly or both will not be permitted access to the premises.

The Premises Licence holder is to maintain door staff profiles for all door staff working at the premises, and for any door staff that have worked on the premises in the last three months. The door staff profile will consist of identification for the member of staff.

- A copy of his/her SIA badge,

- Passport or driving Licence. If the proof of identification is anything other than the photo driving Licence, then the member of staff will need proof of address, which must be a copy of a utility bill and be dated within the last six months.

The Premises Licence Holder shall ensure that Door supervisors stationed outside the front of the premises will wear hi-visibility jackets/coats, and will have their SIA badge held in a clear arm sleeve. Door supervisors inside the premises will wear hi-visibility waist coats, again with their SIA badge held in a clear arm sleeve.

The Premises Licence Holder shall ensure to operate an incident book and record all incidents that occur inside and immediately outside premises. Incident book can be inspected at any time by any regulatory body. All training records for all staff, in regard to drunkenness, and for the protection from harm for children to be maintained and to be available upon request from any regulatory body.

The Premises Licence shall ensure that the premises will operate a drugs policy, and lost / found property policy. Copies of both to be supplied to Licensing Department Steelhouse Lane Police Station. Venue to ensure the entrance area together with queuing area is sufficiently lit.

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

The Premises Licence Holder shall ensure that the maximum number of persons on the premises at any one time shall not exceed the number agreed with West Midlands Fire Service and West Midlands Police and fixed at any individual SAG meeting for each event and such capacity will not be exceeded.

A professionally prepared fire risk assessment will be produced which will propose maximum numbers which will thereafter be agreed with West Midlands Fire Service and West Midlands Police and become the maximum number for the premises and such capacity will not be exceeded, provided always that such number may be varied upwards or downwards by agreement with West Midlands Fire Service and West Midlands Police.

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

The Premises Licence holder will ensure that external windows and doors (other than for access/egress) shall be kept closed whenever licensed public entertainment is provided at the premises.

The Premises Licence Holder will comply with any reasonable requirements as to noise made during the event by the appropriate Responsible Authority and shall ensure the conduct of patrons leaving premises will be supervised and monitored to minimise potential nuisance. Similarly, conduct of the general public in the vicinity will be monitored and the Police advised of inappropriate behaviour/unlawful activity.

The Licence Holder shall not permit noise emanating from the licensed premises to unreasonably disturb persons in the neighbourhood and in any case, will ensure that the noise levels from licensed public entertainments shall not exceed levels set at neighbouring occupied residential properties that will be agreed with Responsible Authorities. The level of amplified sound shall be controlled by a sound limiting device, set as agreed, if considered appropriate by the Responsible Authorities.

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Whenever regulated entertainment takes place within the licensed premises, such entertainment will not be such as to be a statutory nuisance in the nearest noise sensitive or residential premises.

The Premises Licence holder shall ensure noise propagation tests will be undertaken, during which the sound systems will be configured and operated in a similar manner as intended for the relevant Event. The sound sources used for the test shall be similar in character to the music likely to be produced during the relevant Event. Appropriate control limits at each sound mixer position and adjustments to sound amplification equipment will be agreed as a result of the testing to the satisfaction of the appropriate Responsible Authority.

Before the sound amplification system is used in the mezzanine area a Noise Limiting Device (NLD) of a type approved by the Environmental Protection Unit of Birmingham City Council shall be fitted to the amplification system and set at a pre-set volume level agreed with the Environmental Protection Unit, to ensure the pre-set volume does not cause a noise nuisance to the occupiers of nearby buildings. The installation of the NLD shall be notified to the Environmental Protection Unit at least 14 days before its' initial operation and shall fulfil the following criteria:

- a) The device shall be fitted in an approved position by a competent person and once fitted shall not be moved from the approved position unless prior approval is given.
- b) The device shall either:
 - i) be capable of cutting off the mains power to the amplification system if the volume exceeds the pre-set level determined by the Environmental Protection Unit and shall not restore power to the sound system until the NLD is reset by the licensee or their nominated person, or,
 - ii) be capable of maintaining the volume of the music at the pre-set level.
- c) The amplification system shall only be operated through the sockets/power points linked to and controlled by the NLD.
- d) The NLD shall be maintained in full working order and at the approved pre-set volume whilst the amplification system is operational.
- e) Any damage or malfunction to the NLD shall be reported to the Environmental Protection Unit as soon as possible and within 24 working hours of the damage occurring or malfunction being noted. The NLD shall not be used in this damaged or malfunctioning state until approval has been given by the Environmental Protection Unit.
- f) The NLD system shall be linked to those doors and windows specified by the Environmental Protection Unit via contact switches which are capable of causing the NLD to cut the mains power to the sound system should the doors or windows be opened.

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

The Premises Licence holder shall adopt the Challenge 21 Scheme and appropriate signage will be placed at the entrance to the premises and adjacent to any bar servery. The premises will operate a policy whereby any person attempting to buy alcohol or any person attempting to gain entry to the premises who appears to be under 21 will be asked for photographic ID to prove their age. The only ID that will be accepted is a passport, driving licence with a photograph or an accredited proof of age card bearing the PASS mark hologram.

The Premises Licence holder will ensure that when an event of an adult nature is to be held on the premises that the Licensing Enforcement Officer at the BSCB be notified of the event at least two weeks prior to the event.

If the premises wish to conduct an underage event, then the premises, must supply 28 days notice, together with a risk assessment. West Midlands Police to have a power of veto over any such event.

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Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

Licensing Sub Committee C resolved on the 9th September 2015 having reviewed the premises licence following receipt of an Expedited Review application submitted by West Midlands Police to modify the conditions of licence to include the conditions as detailed 1-5 below under the prevention of crime & disorder objective.

Licensing Sub Committee A resolved on the 8th February 2016 having reviewed the premises licence following receipt of an Expedited Review application submitted by West Midlands Police to modify the conditions of licence to include the conditions as detailed 6 (a-i) below under the prevention of crime & disorder objective.

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

1. All door staff working at the premises, will be searched in person, by either the Designated Premises Supervisor, (or the Manager responsible for Security Personnel) at the Premises before the security personnel come on duty. Any offending materials found as a result of these searches must be removed, and reported within the Licence Review Action Plan.
2. No Stewards will be employed and/or used at the premises after 2400 hours. If they are deployed this must be set out within a Risk Assessment as part of the Event Notification, and agreed in advance with West Midlands Police.
3. The Security Personnel who in the opinion of West Midlands Police, are deemed to be responsible for the incidents giving rise to the Application for Expedited Review will not be re-employed, directly or indirectly in any capacity by the Licensed Premises.
4. Ensure that two bona fide personal licence holders are on site at all times when events are taking place on the premises.
5. The Licence Review Action Plan submitted at the Hearing on the 9 September 2015, must be reviewed jointly by the Premises Licence Holder and West Midlands Police, Licensing Section at least once a month to ensure that any actions contained within the Plan are implemented, as agreed, or until such time that West Midlands Police determine that the reviews should cease.
6. **On any occasion a multiple room or multiple venue event takes place the following conditions to apply:**
 - a. A minimum of two undercover SIA operatives to be deployed in the Premises.
 - b. The following drugs policy, as set out below, shall be implemented:
 - i. Customers will be asked to open their mouths for a mouth inspection;
 - ii. Persons with long hair will be subject to a hair inspection.
 - iii. Contents of pockets will be emptied and bags checked, for example, sealed cigarette packets, lip balm, stash lighters, inhalers, tinned mints, perfume caps, umbrella's, torches etc.
 - iv. Legs will be checked. Any person suspected of concealing items will be required to proceed to the enhanced search area before entry can be granted.
 - c. On suspicion, selected persons will be escorted to an enhanced private search area where their shoes, socks and belts will be removed and a more thorough search carried out of them and their possessions.

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- i) All enhanced searches will be conducted by two security personnel in full view of CCTV.
- ii) During an enhanced search UV torches will be used by search operatives.

d. All relevant staff, as agreed with West Midlands Police, to be trained in drugs awareness to the BIIAB qualification.

e. Additional signage to be displayed throughout the Premises with the following wording:-

"To help support our zero tolerance to drugs policy, random searches will be conducted inside the venue during the course of any event. Anyone refusing to participate in a search will be asked to leave the venue."

"To help support our zero tolerance to drugs policy, ultraviolet (UV) lights are positioned outside all of our toilets. Any persons that are seen to be exposed by the lights for drugs usage will be banned from the venue and reported to the police."

"This venue confiscates IDs that are used falsely or fraudulently. The seized licences/passports etc will be handed to West Midlands Police."

- f. A log of all suspected fraudulent identities used at the Premises to include the time, date and location of seizures be maintained and be made available to the Police upon request.
- g. The Premises to use a minimum of one drugs dog.
- h. If staff at the Premises are suspicious that an ID is not valid then a second form of ID will be required and or a supplementary bank card.
- i. The Premises Licence Holder, Designated Premises Supervisor or his nominated deputy shall check and record details of the SIA Licence held by any member of door staff engaged to act as such, by the Premises Licence Holder. This check shall be carried out each day a member of door staff report for duty. Door Staff will not be allowed to enter their own details into the record book. Such records shall be made available upon request of West Midlands Police.

3c) Committee conditions to promote public safety

N/A

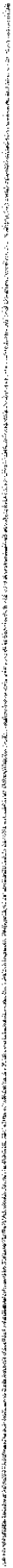
3d) Committee conditions to promote the prevention of public nuisance

N/A

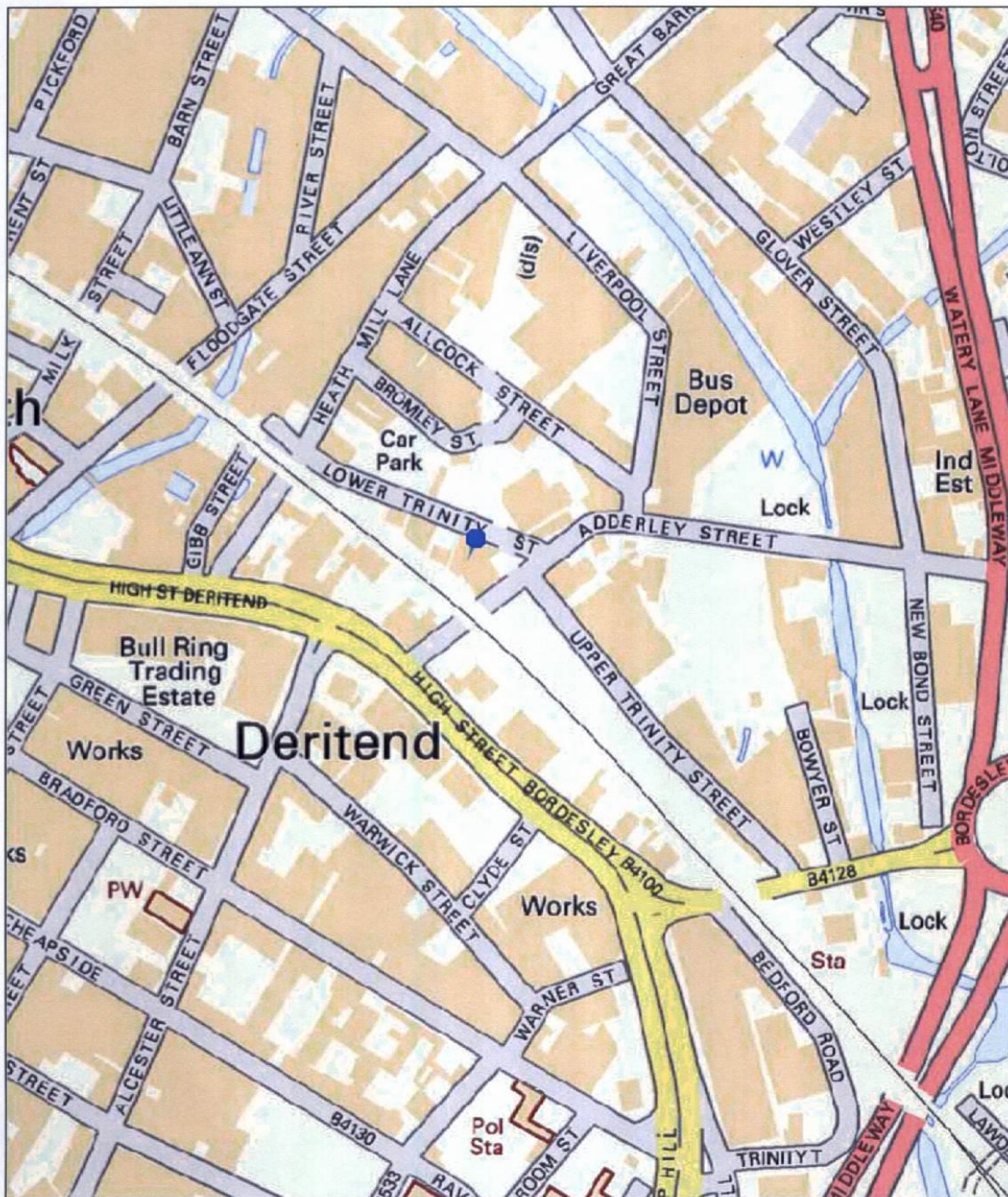
3e) Committee conditions to promote the protection of children from harm

N/A



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Appendix 4



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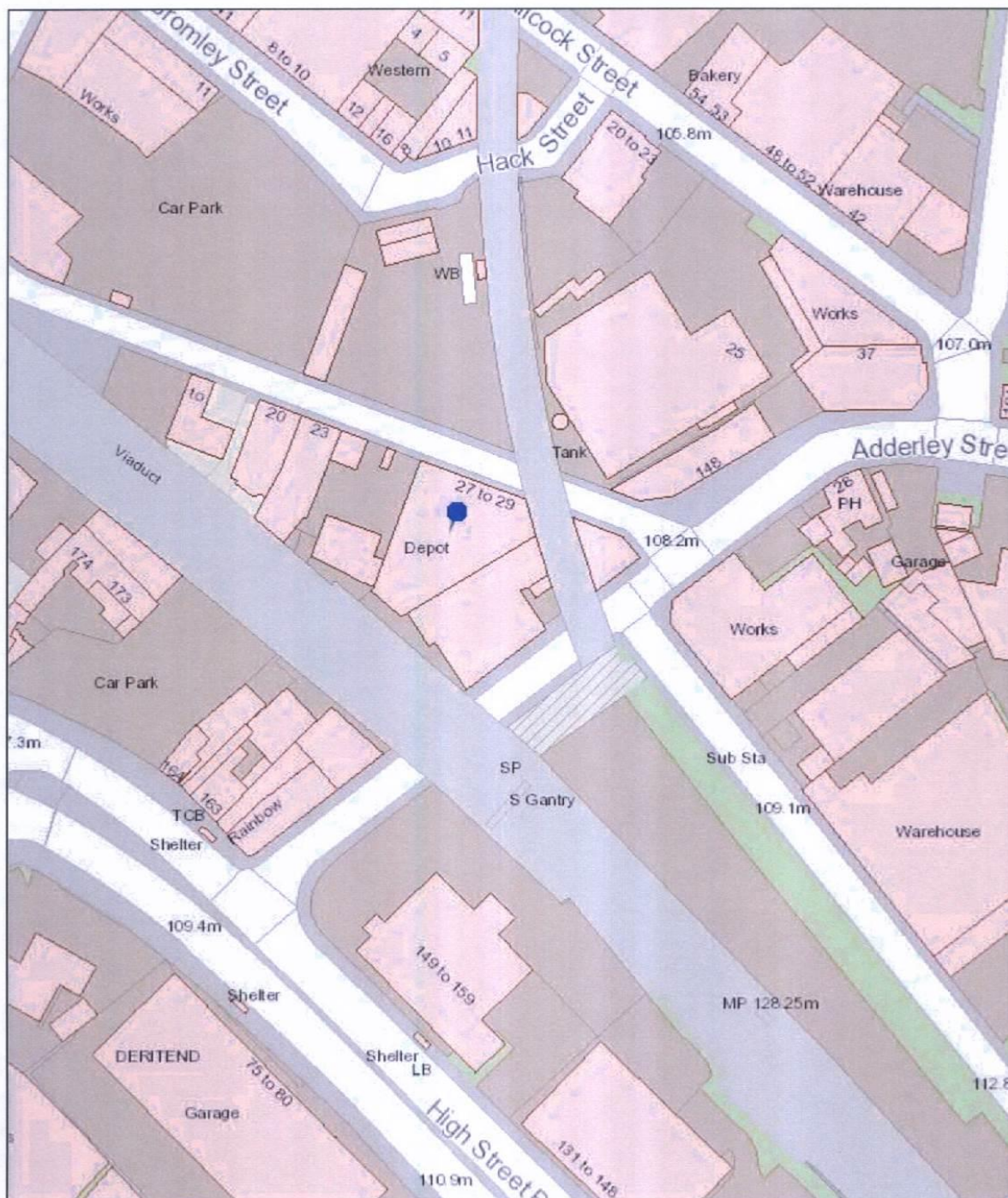
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Date of Map Creation: 25/10/2016



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