

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C
Report of:	Assistant Director of Regulation & Enforcement
Date of Meeting:	Wednesday 9th October 2019
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	24/7 Convenience Express, 41 Horse Fair, Birmingham, B1 1DA
Ward affected:	Bordesley & Highgate
Contact Officer:	Bhupinder Nandhra, Senior 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 19 th August 2019 from the Chief Inspector of Weights & Measures in respect of 24/7 Convenience Express, 41 Horse Fair, Birmingham, B1 1DA. A representation has been received from West Midlands Police as a responsible authority.

4. Compliance Issues:
4.1 Consistency with relevant Council Policies, Plans or Strategies:
The report complies with the City Council's Statement of Licensing Policy and the Council's Corporate Plan to improve the standard of all licensed persons, premises and vehicles in the City.

5. Relevant background/chronology of key events:

The Chief Inspector of Weights & Measures applied on 19th August 2019 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for 24/7 Convenience Express, 41 Horse Fair, Birmingham, B1 1DA.

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

Review application is attached. See Appendix 2.

The Premises Licence is attached at Appendix 3.

Site location plans are attached at Appendix 4.

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

The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -

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

6. List of background documents:

Copy of the representation as detailed in Appendix 1

Review Application Form, Appendix 2

Copy of Premises Licence, Appendix 3

Site location plans, Appendix 4

7. Options available

Modify the conditions of Licence

Exclude a Licensable activity from the scope of the Licence

Remove the Designated Premises Supervisor

Suspend the Licence for a period not exceeding 3 months

Revoke the Licence

No Action

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.

From: Abdool Rohomon
Sent: 20 August 2019 14:21
To: Licensing
Subject: FW: Application for the review of a premises licence under the Licensing Act 2003

Dear Licensing

Please see below representation by West Midlands Police for the review application for the above premises

regards

Abs Rohomon

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

Follow us on Twitter - @brumcopslicensing

**West Midlands Police
Tel. 101 Ext 8011627**

Email:

Website: www.west-midlands.police.uk

Twitter: www.twitter.com/brumpolice

Facebook: www.facebook.com/westmidlandspolice

YouTube: www.youtube.com/westmidlandspolice

Vision statement - Serving our communities, protecting them from harm

From: Ben Reader
Sent: 19 August 2019 14:41
To: Abdool Rohomon
Subject: FW: Application for the review of a premises licence under the Licensing Act 2003

**Police Constable 2413 Ben Reader
Licensing Department
Birmingham West Local Policing Unit
Police Headquarters,
Lloyd House,
Birmingham,
B4 6NQ**

Preventing crime, protecting the public and helping those in need

From: bw licensing

Sent: 19 August 2019 13:42

To: 'Donna Bensley'; Licensing; Pollution Team; bw licensing; firesafety.admin@wmfs.net; PlanningandRegenerationEnquiries; Safeguarding Children & Licensing; Birmingham Public Health; Alcohol@homeoffice.gsi.gov.uk

Cc: Kamaljit Panesar

Subject: RE: Application for the review of a premises licence under the Licensing Act 2003

BCC Licensing,

West Midlands Police have seen this application and wish to make a representation to support the application made by Trading Standards.

The supply of illicit tobacco shows that the licence holder is not only failing to promote the licensing objectives, but also committing offences. The illicit tobacco will be sold at lower prices, and will not be subject to the required level of duty and taxation. This market fuels the smuggling of products into the country which can be linked to organised crime groups.

Having seen the paperwork previously submitted, I conducted a visit to the premises in the early hours of Saturday 10th August. I was surprised to see so many super strength products available in the store, which were being sold as single cans. A group of people were served these products at approx 01:30 hours. I would class this group as being 'street drinkers'. The group went outside and drank the super strength alcohol in the bus stop outside, causing me to go over and speak to them because of their behaviour. This premises is contributing to the alcohol related ASB that takes place on a regular basis around this location.

It is the opinion of WMP that this premises are not promoting the licensing objectives, specifically the prevention of crime and disorder and public safety.

Regards

Ben

Police Constable 2413 Ben Reader
Licensing Department
Birmingham West Local Policing Unit
Police Headquarters,
Lloyd House,
Birmingham,
B4 6NQ

Preventing crime, protecting the public and helping those in need

WITNESS STATEMENT

Crime Number:.....

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5BURN

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Statement of: Ben READER

Age if under 18: Over 18 (if over 18 insert 'over 18') Occupation: Police Officer

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

Signature:  2413 Date 16/09/2019Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

I am Police Constable 2413 Reader of the West Midlands Police. I am a specialist licensing officer based at Lloyd House, Police Headquarters.

I have made representations in support of a review initiated by trading standards against a premises namely 24/7 Convenience Express, 41 Horse Fair, Birmingham, B1 1DA. The licence holder for the premises is Rahmat HASSANPOOR, he is also the DPS.

On Sunday 15th September, I was doing licensing enforcement visits in the city centre with licensing officer Chris Jones. We went to Rodroj, Smallbrook Queensway as part of the visits and were looking through some conditions in the venue.

At around 19:05 hours, two males entered the premises, I would describe these males as being street drinkers. One of the males had a can of super strength cider in his pocket, he got it out and shouted to me 'Gaffer, I haven't nicked this, I already had it when I walked in' The male was loud and animated, he walked past me and straight to the fridge to pick up some super strength cider. He came back and got into the queue with his friend. I could smell alcohol on him. I believed that this male was drunk.

He got to the front of the queue and was refused service by the cashier as he believed him to be intoxicated. The male and his friend remonstrated and left the store moaning that they had been refused and would never go back there.

A couple of minutes later we left the store and headed round to 24/7 Convenience Express. As we were walking round, the same two males were walking back towards us, holding their cans of cider up, bragging that they had been served round the corner.

I went into 24/7 with Chris Jones to investigate what had happened. Upon reviewing the CCTV, I could see that these males were served super strength cider by the staff. The cans of cider were Knights cider, which has a very high ABV of 8.4%, each can was only a pound. The staff here did not think that the males were drunk and were happy to serve them. The availability of such strong alcohol at discount prices is fuelling the crime and ASB linked to the homeless and street drinking community.

On looking in the store, it was obvious that a large percentage of what they are selling is what I would classify as high strength products, all available as single cans, which is usually opened and consumed on the street soon after purchase.

I have produced a number of photographs in support of my visit to the premises.

 2413

Exhibit BR/1 is a photo of the Knights Cider available for a pound per can.

Exhibit BR/2 is a photo of the range of high strength cans of alcohol.

Exhibit BR/3 is a photo of the range of high ABV ciders in larger bottles.

Exhibit BR/4 is a photo of a baseball bat held behind the counter.

Exhibit BR/5 is a photo of dealer bags available for sale behind the counter.

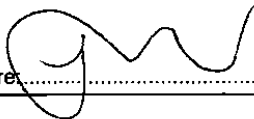
Exhibit BR/6 is a photo of a selection of glass pipes on sale. These are the type of pipe people would use to smoke crack.

Exhibit BR/7 is a photo of grinders for sale, typically used for grinding herbal cannabis.

Exhibit BR/8 is a photo of the take away at the rear of the premises.

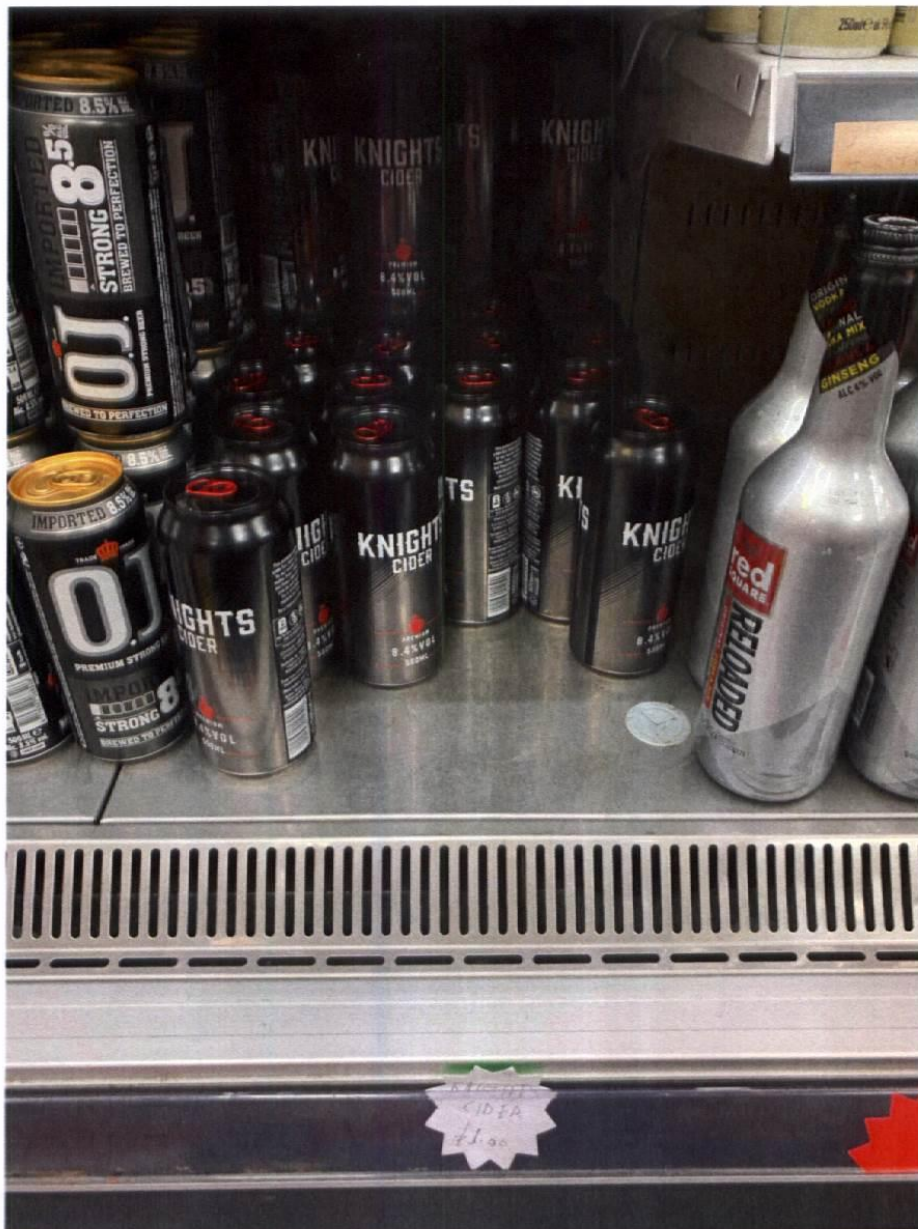
I wish to raise these matters at the review hearing as I believe that the premises are not promoting the crime and disorder objective.

Signature

 24.3.

Signature witnessed by:

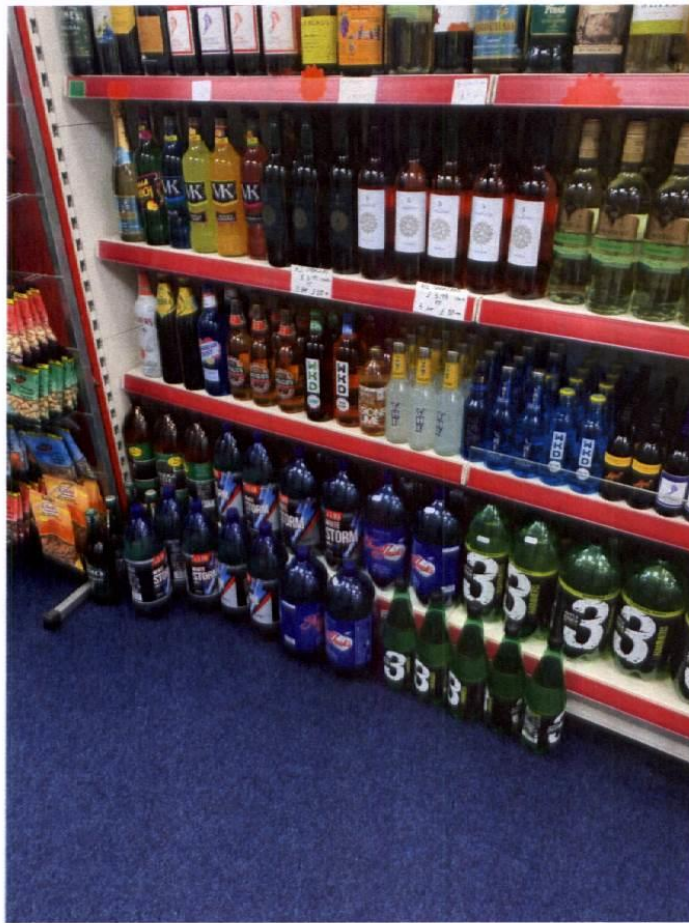
OFFICIAL (when complete)



BR /1 Knights Cider 8.4% ABV for \$1.



sr/2 Selection of super strength



BR/3 Super strength cider



br/4 Baseball bat behind counter



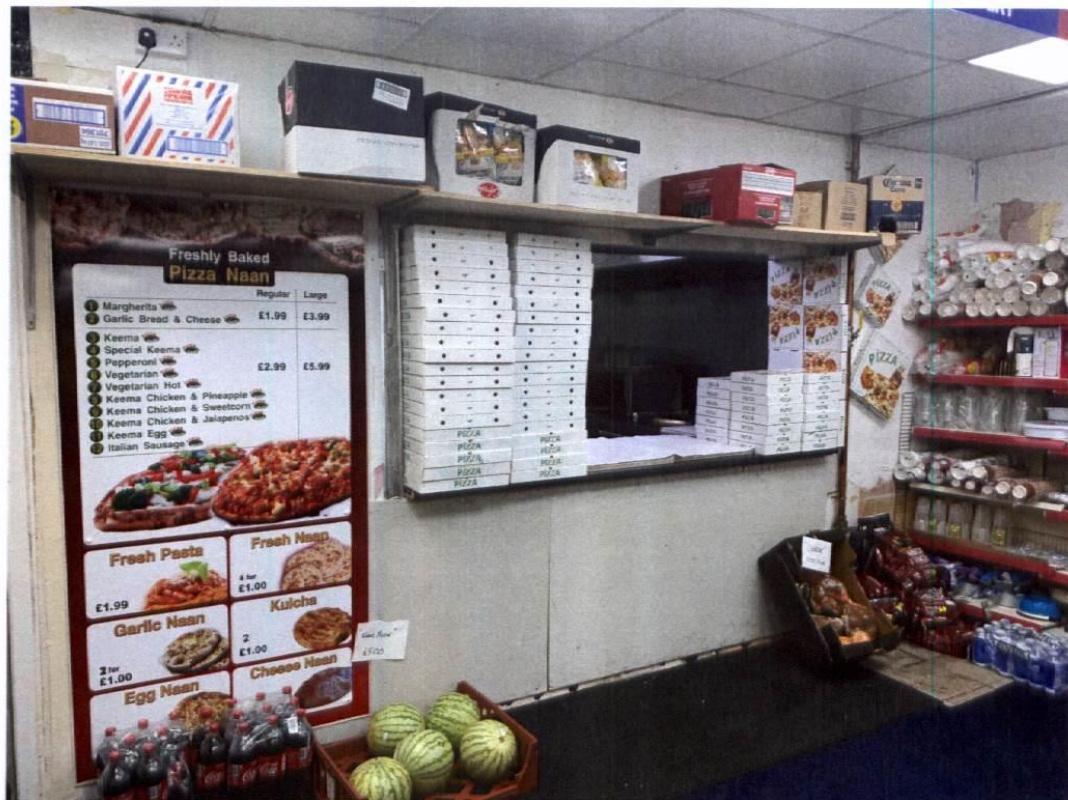
BR/S. Dealer bags.



B2 / 6. Glass pipes.



BR / 7. Grinders



BR/8 Pizza take away

Birmingham City Council, PO 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 Kamaljit Panesar (on behalf of Donna Bensley Chief Inspector of Weights & Measures)
(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	
24/7 Convenience Express 41 Horse Fair	
Post town Birmingham	Post code (if known) B1 1DA

Name of premises licence holder or club holding club premises certificate (if known)
Mr Rahmat Hassanpoor

Number of premises licence or club premises certificate (if known)
2632

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)

yes

☒

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)

Surname

First names

I am 18 years old or over

Please tick ✓ yes
☐

Current postal
address if
different from
premises
address

Post town

Post Code

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 Kam Panesar Birmingham City Council Trading Standards PO Box 16586 Birmingham B33 3EH Case Reference WK/009434637
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 checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

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

In June 2019, Trading Standards received a referral in relation to 24/7 Convenience Express, 41 Horse fair, Birmingham, B1 alleging that they were selling different brands of cigarettes and also selling to under age children.

On Thursday 4th July 2019 Officers from Trading Standards conducted an inspection at the premises. The Premises Licence Holder Mr Rahmat Hassanpoor and the Designated Premises Supervisor, Bhupinder Rai were not present during the inspection.

The reason for the visit was explained to a gentleman who was working behind the counter. The relevant Notice was issued which he signed and retained a copy of. An inspection was carried out of the alcohol and tobacco.

Behind the counter, under the till, a black brief case was found which was locked. The officer asked the gentleman if he knew what was in the brief case but was told that it belonged to the owner. The officer then asked for the gentleman to contact the Designated Premises Supervisor. When the gentleman telephoned the Designated Premises Supervisor, he was told that the briefcase did not belong to him, he said that it belonged to someone who used to be there and he did not know what was inside the case and that he could not get in touch with the person who it belonged to.

The briefcase was placed in a clear bag and sealed with a tamper proof seal (No. 04869028). This was detained as evidence under The Consumer protection From Unfair Trading Regulations 2008, Trade Marks Act 1994 and Consumer Protection Act 1987 as the officers had reasonable cause to suspect that illegal tobacco products were contained within.

It was explained that the Designated Premises Supervisor must contact the Officer within 7 days or the case will be forced open. This was recorded in the Premises Search Book no. 183 and copy of a receipt was given.

On 9th July 2019, a representative emailed the officer on behalf of the Premises Licence Holder Mr Rahmat Hassanpoor stating that the briefcase was left at the shop by a customer, who never returned and as the keeper of the briefcase gave consent for it to be opened.

After waiting 7 days, on 12th July 2019 the briefcase seized was opened at the Offices of Trading Standards Service, Phoenix House, Garretts Green, Birmingham. Officers videoed whilst opening the briefcase and discovered a total of 57 packets of suspected illicit tobacco.

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

In October 2018 Trading Standards received a complaint of counterfeit cigarettes being sold at 24/7 Convenience Express of 41 Horse fair, Birmingham, B1 1DA. On 22nd October 2018, an Officer visited the premises and warned the Premises License Holder Mr Rahmat Hassanpoor and gave him some information along with a Traders Notice No. 12691.

The further complaint was received in June 2019 the substance of which was similar to the earlier complaint. This resulted in the visit that has triggered this application; the cigarettes found were clearly concealed in the brief case and also during the inspection by officers customers were coming in and then turning away when they saw what was happening. It was clear to the officers that either illicit or single cigarettes were being sold at the premises.

It is felt that Mr Rahmat Hassanpoor, the premises licence holder and Bhupinder Rai, the Designated Premises Supervisor for 24/7 Convenience Express have breached two of the four licensing objectives. They have put the customer's health & safety at risk and gained an unfair trading advantage over other local businesses by evading the payment of tax on these products. Neither were on the premises at the time of inspection and RAI said that he didn't know who the briefcase belonged to shows that he has no control on the premises.

Officers have since discovered the code to unlock the case; this appears to be the date of birth of Mr Rahmat Hassanpoor's wife.

I request that the sub-committee consider a revocation of the premises licence in this instance.

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

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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, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

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 **19 August 2019**

Capacity **Trading Standards Enforcement Officer**

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.

BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003PREMISES LICENCE

Premises Licence Number:

2632 / 7

Part 1 - Premises details:

Postal address of premises, or if none, Ordnance Survey map reference or description 24/7 Convenience Express 41 Horse Fair	
Post town: Birmingham	Post Code: B1 1DA
Telephone Number:	

Where the licence is time limited the dates N/A

Licensable activities authorised by the licence	
L	Late night refreshment
M2	Sale of alcohol by retail (off the premises)

The times the licence authorises the carrying out of licensable activities			
Monday - Saturday	08:00	-	04:00 M2
	23:00	-	04:00 L
Sunday	10:00	-	04:00 M2
	23:00	-	04:00 L

The opening hours of the premises			
Monday - Saturday	08:00	-	04:00
Sunday	10:00	-	04:00

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

BIRMINGHAM CITY COUNCIL

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Mr Rahmat Hassanpoor	
Post town:	Post Code:
Telephone Number: Not specified	
Email N/A	

Registered number of holder for example company number or charity number (where applicable) N/A

Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Rahmat Hassanpoor	
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 10203	Issuing Authority BIRMINGHAM CITY COUNCIL

Dated 22/08/2017

SHAID YASSER
Senior Licensing Officer
For Director of Regulation and Enforcement

BIRMINGHAM CITY COUNCIL

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 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.

(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 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.

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, 8 am. to 11 pm. b. On Sundays, other than Christmas Day, 10 am. to 10.30 pm. c. On Christmas Day, 12 noon to 3 pm. and 7 pm. to 10.30 pm. d. On Good Friday, 8 am. to 10.30 p.m. 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) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered; (c) the sale of alcohol to a trader or club for the purposes of the trade or club; (d) 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.

Alcohol shall not be sold in an open container or be consumed in the licensed premises.

BIRMINGHAM CITY COUNCIL

Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

No adult entertainment or services to be provided under the authority of this licence.

A minimum of five C.C.T.V. cameras are to be operational on the premises.

All staff will be trained and there will be at least two members of staff on duty at all times, including one manager.

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

No enforceable conditions identified from operating schedule.

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

A 24 hour recorded surveillance system is to be operational on the premises.

The Licence Holder is to ensure that panic buttons are operational at the premises so as to facilitate a prompt Police response to any disorder that threatens Public Safety.

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

Alcohol is not to be sold or supplied to persons who are heavily intoxicated.

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

Photographic proof of identification is to be required if necessary.

A challenge 25 policy will be operational at the premises. Anyone who appears under 25 will be asked for valid ID. If this cannot be provided there will be no sale of alcohol.

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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

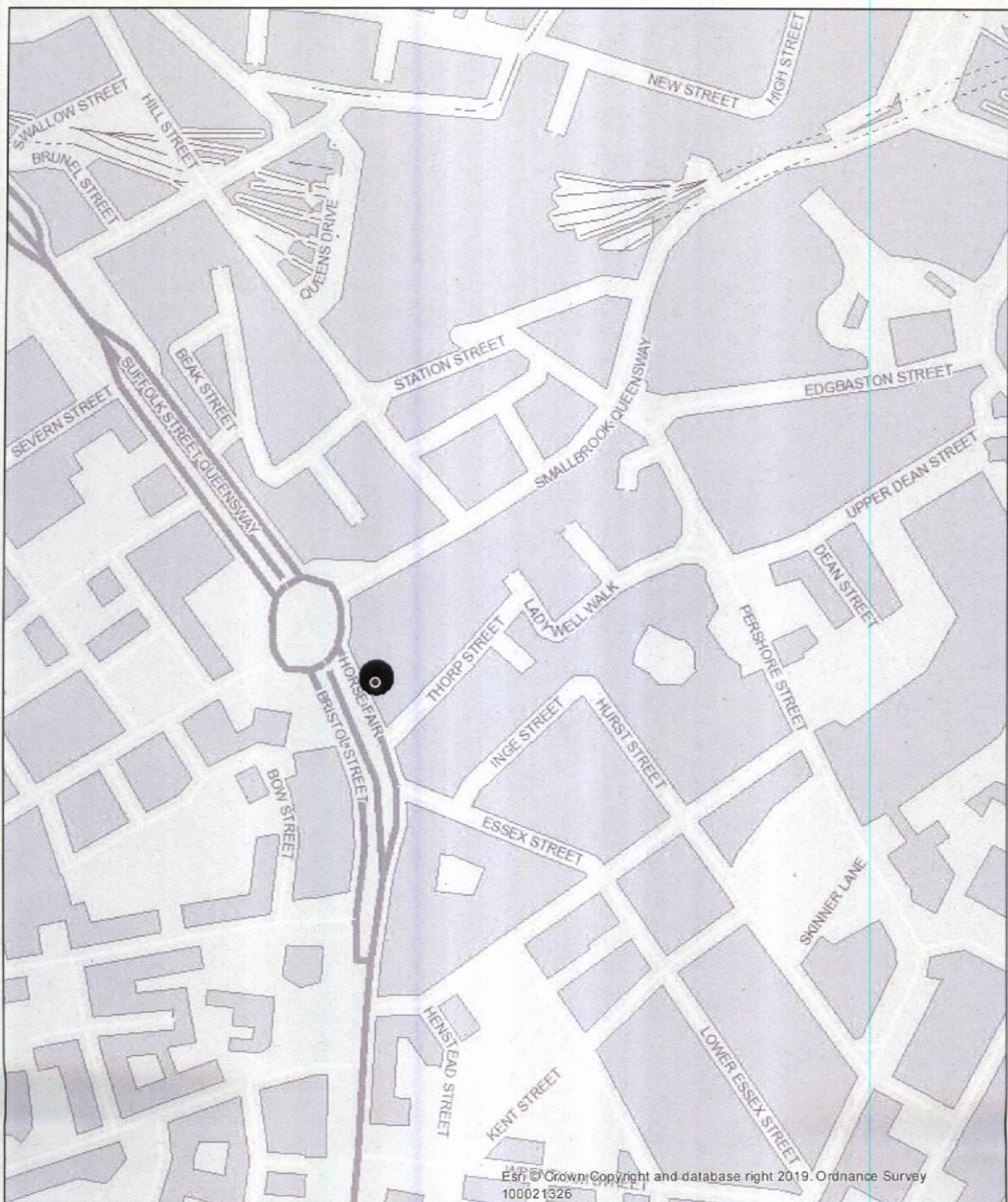
3e) Committee conditions to promote the protection of children from harm

N/A

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Annex 4 – Plans

The plan of the premises with reference number **102357-2632/7** which is retained with the public register kept by Birmingham City Council and available free of charge for inspection by appointment only. Please call the Licensing Section on 0121 303 9896 to book an appointment.



Birmingham
City Council

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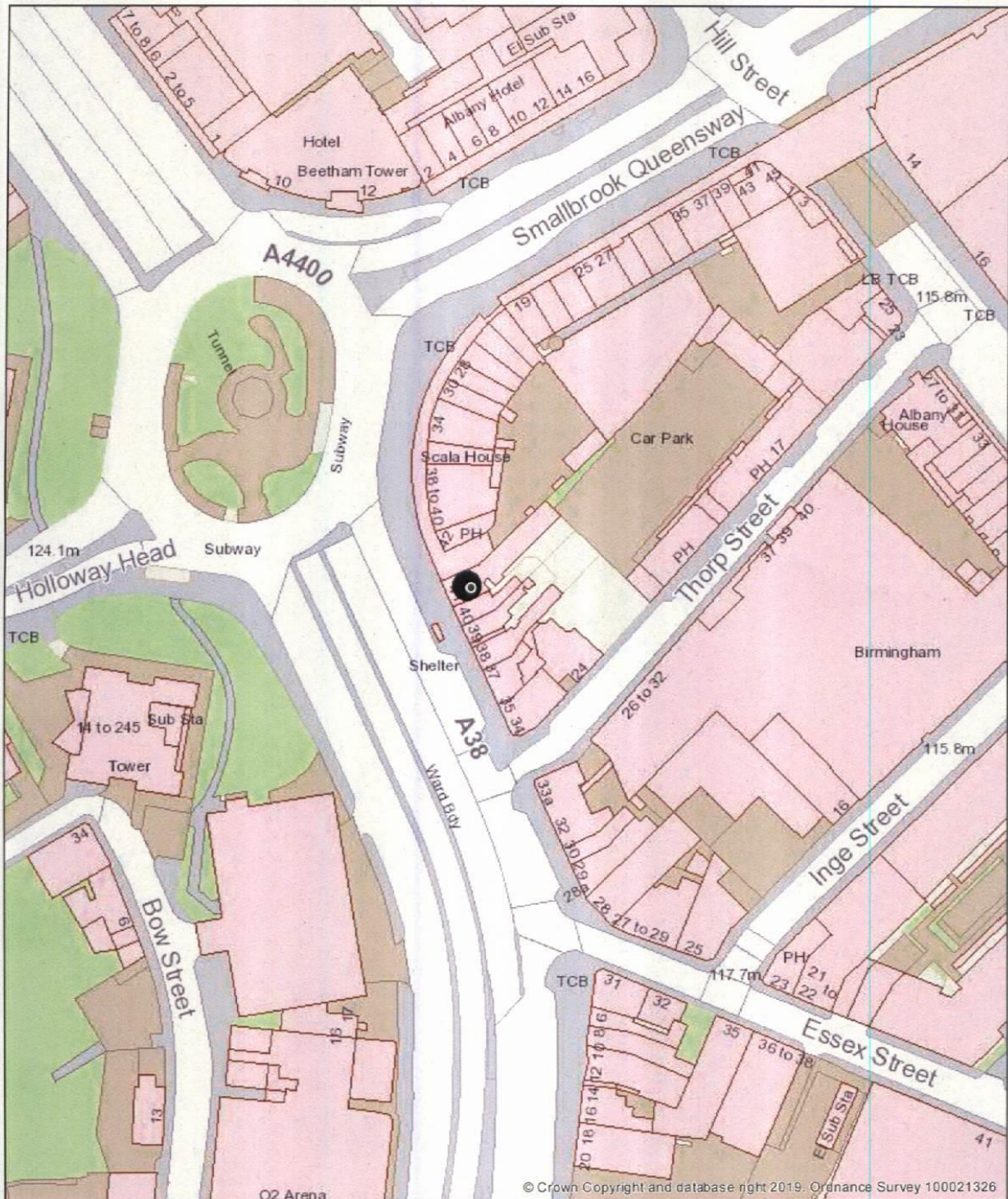
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City Council

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