

Evidence for the

Licensing Hearing for

The Minimarket

235-237 Lozells Road, Birmingham

RESTRICTED DOCUMENT



Objection	Pg 3
Statement PCSO Capella	Pg 4
Photos	Pg 5-10
Licensing sub-com A decision notice	Pg 11-13
Gov website case law	Pg 14-17
Previous app (19/6/18 condensed)	Pg 18-29

Abdool Rohomon

From:

bw licensina

Sent:

24 August 2018 13:39

To:

'Licensing@birmingham.gov.uk'

Subject:

FW: New premises licence application for Minimarket 235-237 Lozells Road.

Attachments: Consent of DPS - The Minimarket, Lozells Road Aug 2018.pdf; Plans - Lozells Road_August 2018.pdf; The Minmarket - Staff training, Operations Manual August

2018_RVE.pdf; Passport PLH Lozells.docx; Signage - Please leave quietly.pdf;

_Application -235 Lozells Rd_09, August 2018 LLL.pdf

Dear Licensing,

West Midlands police have reviewed the application for the above premises and wish to lodge an objection to the granting of this application on the prevention of crime & disorder and public nuisance licensing objectives.

The applicant and has very recently had a very similar application heard in front of the licensing committee which was refused, an extract from their decision is detailed below.

The Sub-Committee gave consideration to whether any measures could be taken to ensure that the licensing objectives were adequately promoted and that therefore the licence might be granted: however Members considered that neither modifying the conditions of the licence nor excluding any of the licensable activities from the scope of the licence would mitigate the concerns raised by those making representations.

This area is still a significant concern to West Midlands Police due the amount of alcohol fuelled crime and alcohol fuelled anti-social behaviour which has not diminished since the last application, despite the continual and on-going efforts of the local neighbourhood policing team. The area is complex with many vulnerable residents living near to the premises with either addiction problems, mental health issues or both. It is the view of West Midlands Police that the demand and threat through alcohol related crime and ASB is significant. Another premises is likely to add to these problems / issues and as such whatever that is proposed will be insufficient to meet both the concerns and real life issues identified by West Midlands Police.

Many thanks

Regards

Chris Tones 55410

Birmingham Central Licensing Team

West Midlands Police HQ Lloyd House Colmore Circus Birmingham B4 6NQ

(Sat nav postcode B4 6AT)

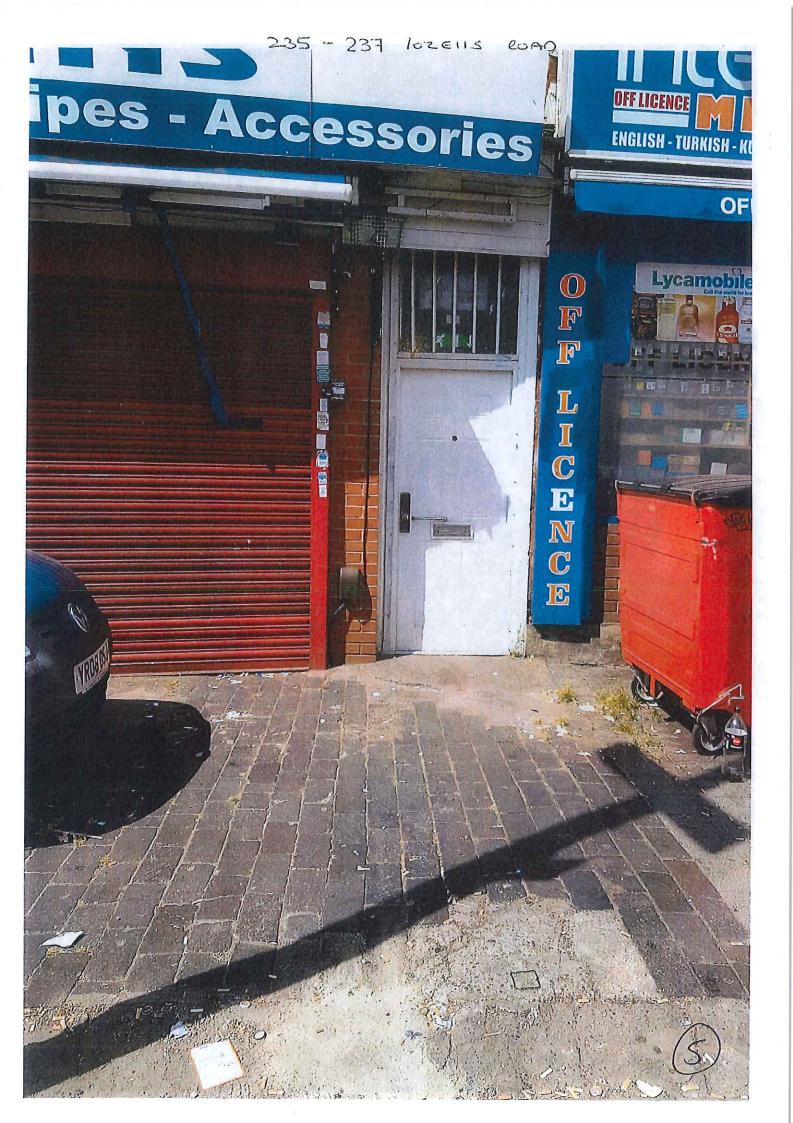
Contact us on 999 in an emergency or for all other matters please visit WMPolice Online

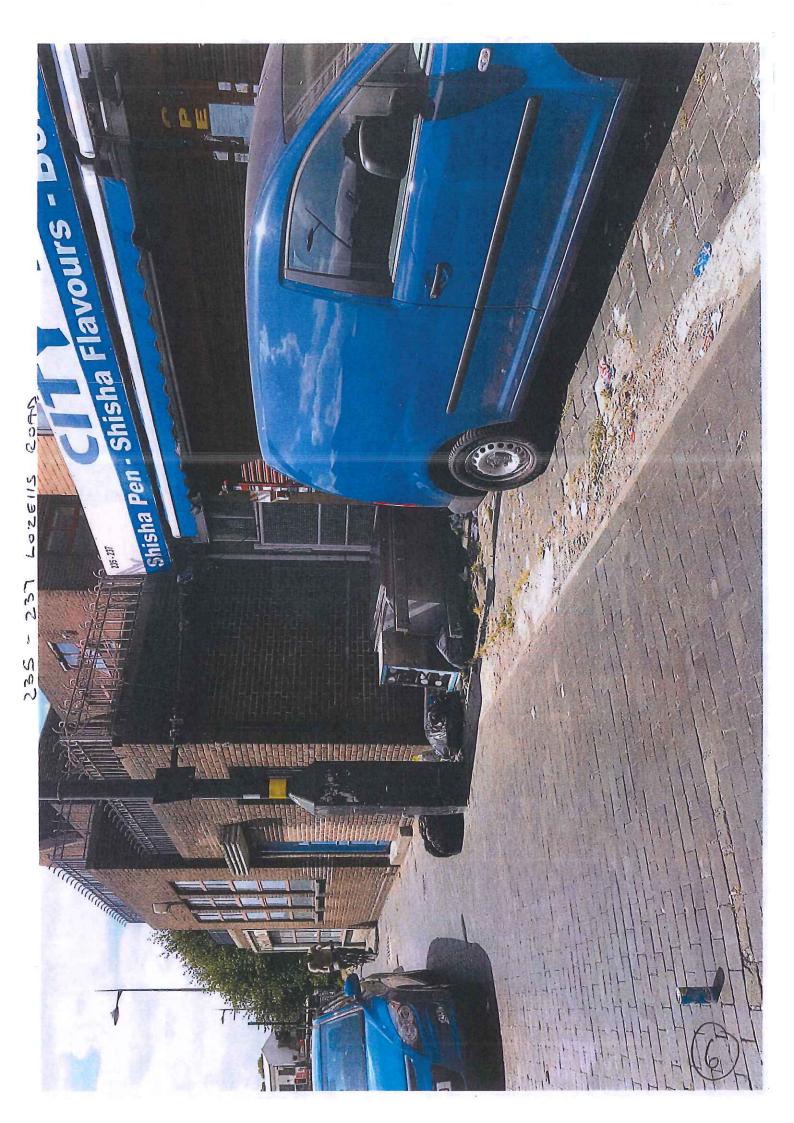


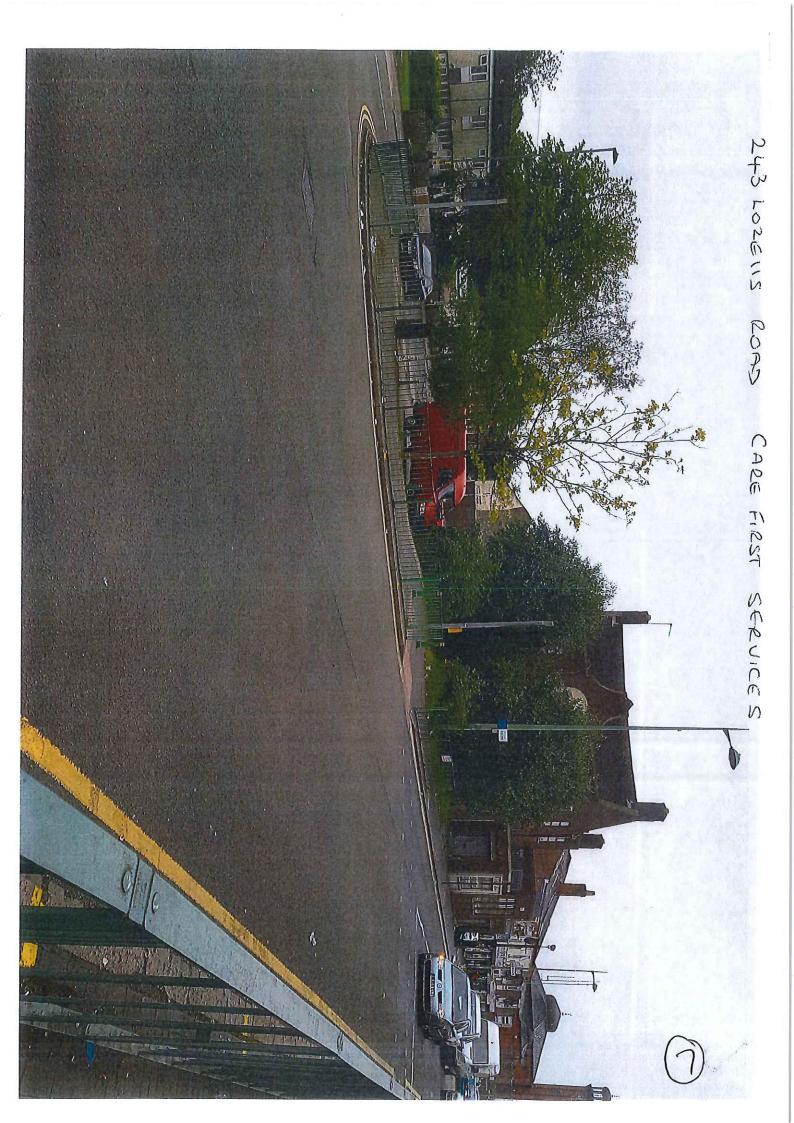
WITNESS STATEMENT

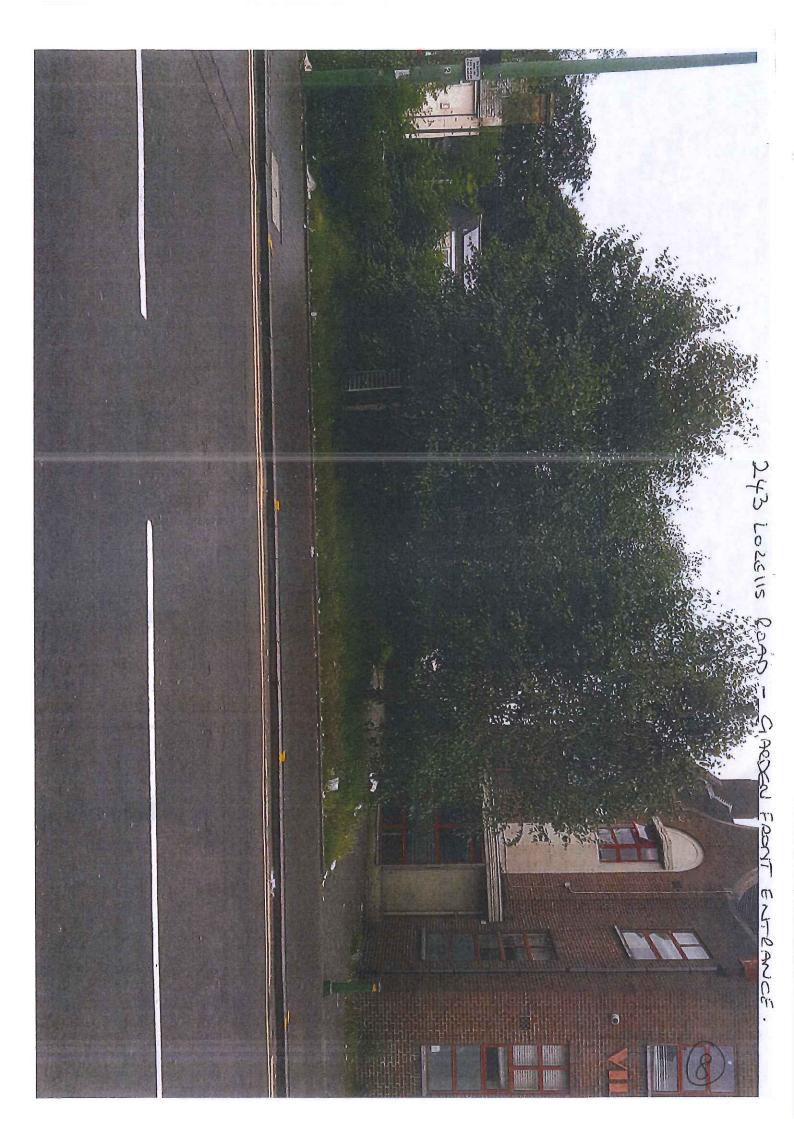
Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

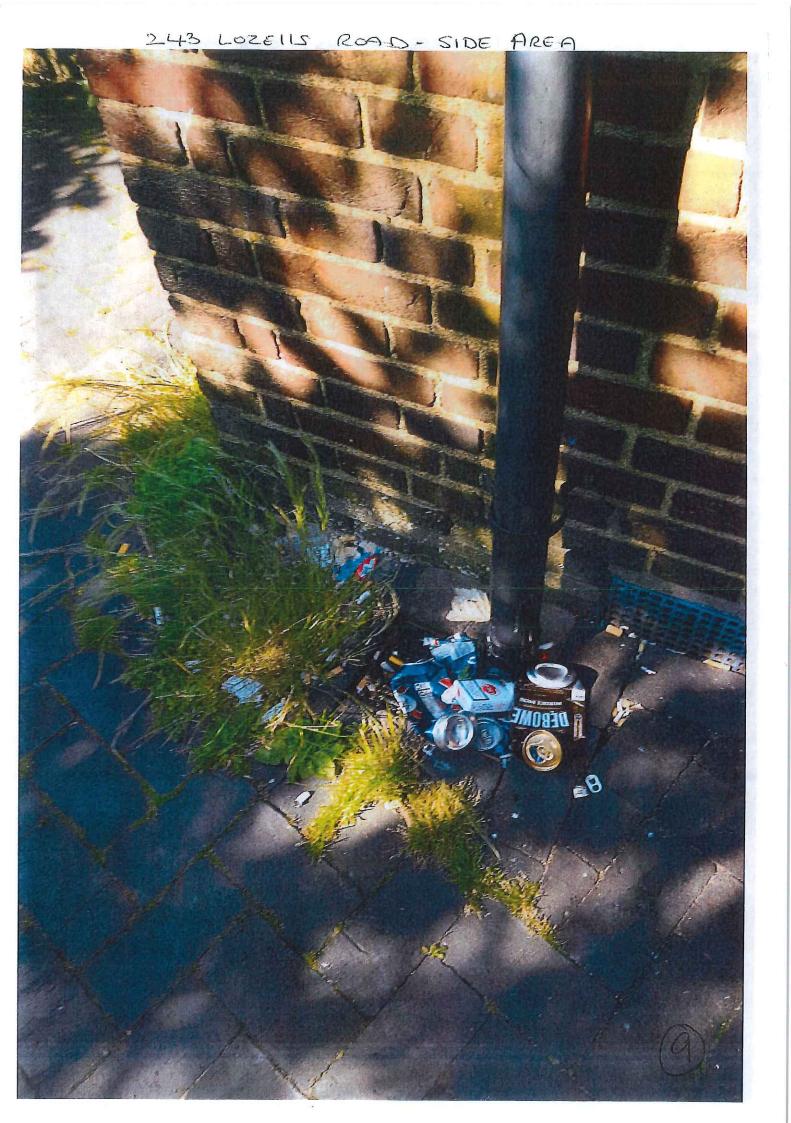
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Age if under 18 OVER (if over 18 insert "ov	ver 18") Occupation POLICE Con	nmunity Support Officer 30415
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Signature: (witness)		Date 12/07/18
the Lozells and East Handsworth N application to open a licence shop a have a negitive affect on the improvement of God 240 Lozells Road which runvictims. Next to the shop is 243 Lozes support hostels in and around Hands The front of this building has trees a street drinkers as is hidden away. The trunkers as is hidden away that visiters to the centre (Social Workshottles. This area has been arbeen working for a long time to remove or the location has been drop shop selling drink will have an affect prime in the location has been drop shop selling drink will have an affect provided in the police can help remove the other side of the planned shoup to 1000 and has a boys madrass.	cicer 30415 Rob Capella, I have been in this eighbourhood Police Team. This is an impart 235-237 Lozells Road selling 24hours a dring location in Lozells. Bargins and is opposite George Street and the season and is opposite George Street and the season kitchen once a week to help home sells Road, Care First Services, this organised desworth for 16-21 year old children who have and a grassed area which during the night at The area is always subject to empty drinks on a reporting moving drinkers away from the orkers and children) comment on the rubbis of area for drinkers for a long time and the New ove this sort of behaviour from the area with ping over the last few years. Community ment of attracting more drinkers to the location, increase in anti social behaviour. I have been duce even more drinks shops to the location of the season of the location of the season of the location o	act statement in regards an day. This application I feel will the New Testament Church less and drug dependant ation runs a number of expent theirearly life in care. Ind weekends is used by cans ,broken bottles and exploration and they also report is and empty drinks eighbourhood Team have in some success and reported embers fear that with another increasing the fear of crime ten asked at community in as they fear crime will ular worshipers numbering where 600 boys from
	most walk past the location of the planned s	shop.
ENC. I enclose 6 photographs of the Signature		1
03/2016	OFFICIAL – (when complete)	

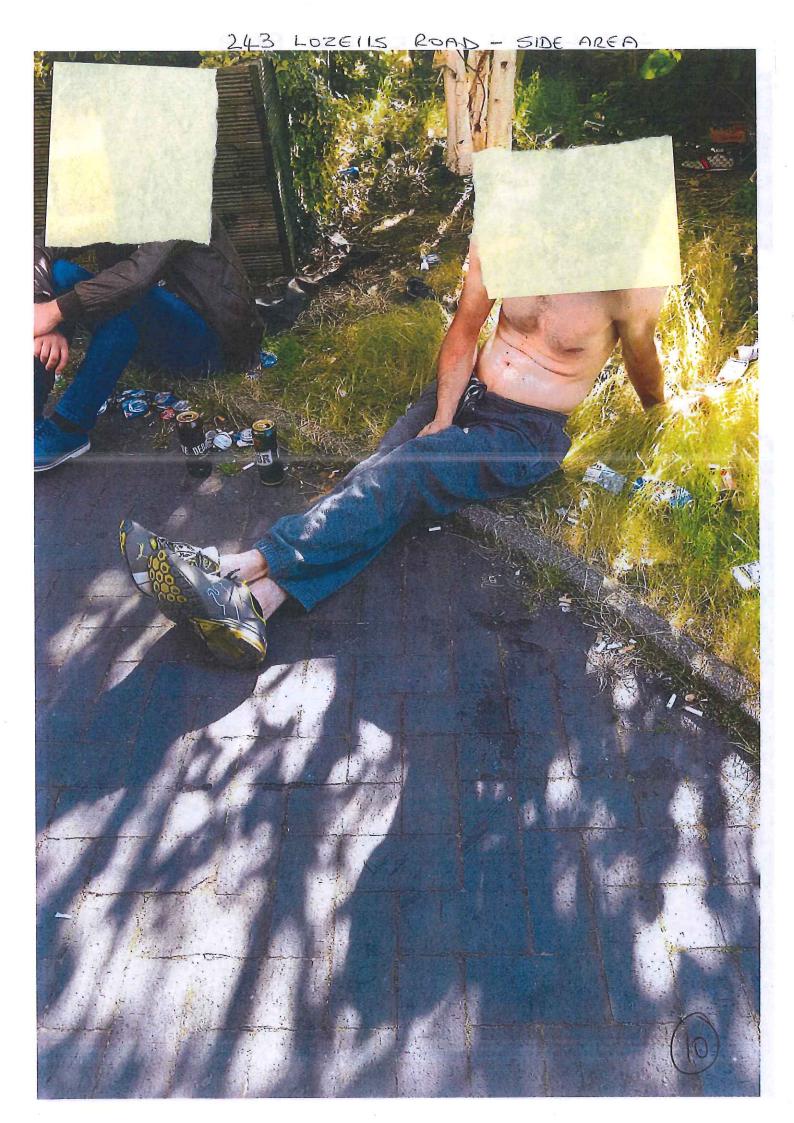














BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE A

6th AUGUST 2018

THE MINIMARKET, 235 - 237 LOZELLS ROAD, BIRMINGHAM B19 1RJ

That the application by Saman Jowhar Kahrahman for a premises licence in respect of The Minimarket, 235 – 237 Lozells Road, Birmingham B19 1RJ BE REFUSED.

The Sub-Committee's reasons for refusing this application for a premises licence are due to concerns expressed by West Midlands Police regarding the management of the proposed operation in what had for many years been a very difficult and challenging area for the neighbourhood Police team. In reaching this decision, the Sub-Committee was mindful of the promotion of the licensing objectives in the Act, particularly the prevention of crime and disorder and the protection of children from harm objectives.

The Sub-Committee paid particular attention to a statement submitted by the local PCSO which outlined the extensive problems of crime and anti-social behaviour in this part of Lozells and East Handsworth – caused in large part by street drinking and gang culture.

The Sub-Committee carefully considered the operating schedule put forward by the applicant, and the likely impact of the application, but were not persuaded that that the applicant and the proposed operation of the premises could promote the licensing objectives. Although it was accepted that the applicant had experience of running a similar type of shop in Telford, the Sub-Committee were not convinced that he fully understood the specific problems facing an alcohol retailer in the Lozells Road area.

West Midlands Police attended the meeting to confirm what the local PCSO had stated – that the area generated a huge amount of work for the neighbourhood Police team due to the numerous issues of crime, disorder and nuisance in and around Lozells Road. These issues were overwhelmingly created through irresponsible drinking; over the years it had been observed that the cause was the prevalence of street drinkers. The Police dealt constantly with drunkenness and extremely high levels of litter & refuse all over the area. Photographs were submitted - one showed two men sitting on the ground surrounded by alcohol; other photographs showed the extent of the severe litter problem in the area. The level of antisocial behaviour was high; the long-term demand on Police resources had been, and continued to be, significant.

The Police recommended that successful operation in Telford should not necessarily be seen as a reliable indicator of how the applicant would operate in the Lozells Road area, due to the specific problems seen in Lozells Road, as



illustrated by the PCSO's statement and photographs. Any proposal that would increase the availability of alcohol in an area already plagued by street drinkers required the applicant to have had experience of selling alcohol in this type of 'difficult' neighbourhood – otherwise, an increase in crime and disorder would be the likely result.

The Police stated that they were not confident that the applicant would be capable of promoting the licensing objectives. The Police considered that neither the applicant nor the operating schedule showed sufficient understanding of the Lozells Road environment. The Sub-Committee accepted this; given that alcohol-fuelled crime and disorder around Lozells Road was already a major problem for the neighbourhood Police, any additional licensed premises could place the licensing objectives at risk, unless the applicant was experienced in selling alcohol in this type of environment.

Another person also attended the meeting, represented by a solicitor, to address the Sub-Committee. This person was a local shopkeeper; he ran the premises adjacent to The Minimarket. His premises was a convenience shop licensed to sell alcohol by retail. The neighbouring shopkeeper had operated for a number of years, and therefore had a good understanding of the Lozells Road area.

The neighbouring shopkeeper confirmed that Lozells Road was exactly as described by the PCSO, with drunkenness, disorder, litter and nuisance all seen regularly. He stated that gangs and drugs had also become a feature of the area. He stated to the Sub-Committee that as a result of what he had directly observed whilst trading in his own shop, he shared the view of the Police — namely that Lozells Road was plagued by alcohol-fuelled crime and antisocial behaviour 'at such a level that it was difficult for licence holders to operate safely unless they were familiar with the area, or a similarly troubled area.

He explained that at the start of 2018 his shop had been subjected to a robbery in which a knife had been brandished; both cash and alcohol had been stolen from his shop. In another episode, there had been an attempt to rob the in-store cashpoint machine whilst it was being filled. The Sub-Committee noted that this shop was directly next door to The Minimarket, and therefore anybody proposing to operate in the premises would need to be prepared for these types of problems.

The neighbouring shopkeeper went on to explain that, as a result of these incidents, he had had to retrain his staff for their own safety, such that they understood what to do in 'conflict situations'. He had also had to adjust his staffing arrangements for safety reasons, ensuring that three members of staff would always be on duty.

All in all the neighbouring shopkeeper felt that the area was 'difficult', and therefore what was required was a person familiar with operation either in Lozells Road or in a comparable type of 'difficult' area. It was the opinion of the neighbouring shopkeeper that the applicant could not understand problems such as knife crime, gangs or drugs, as the applicant was not familiar with Lozells Road, and therefore would only understand trading in terms of the Telford area. (The Sub-Committee noted that the applicant had confirmed that he lived in Telford).

The Sub-Committee gave consideration to whether any measures could be taken

to ensure that the licensing objectives were adequately promoted and that therefore the licence might be granted; however Members considered that neither modifying the conditions of the licence nor excluding any of the licensable activities from the scope of the licence would mitigate the concerns raised by those making representations. The evidence of the Police and the neighbouring shopkeeper had shown that the area was indeed 'difficult', and therefore that any increased availability of alcohol would have to be very carefully managed by an experienced person. The instant applicant had experience of trading in Telford, but that was not a suitable comparator when considering Lozells and East Handsworth. The Sub-Committee had doubts that either the applicant, or the operating schedule, would be capable of upholding the licensing objectives in an area which already had significant problems of crime, disorder and nuisance. Accordingly the Sub-Committee resolved to refuse the application.

The Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the information contained in the application, the written representations received and the submissions made at the hearing by the applicant, their adviser, and those making representations.

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.



Published 13 March 2017 Contents

1. 1.Case law and the Licensing Act

- 3. 3. Hope and Glory Public House v City of Westminster Magistrates' Court and Others
- 4. 4. Daniel Thwaites plc v Wirral Magistrates' Court and Others

1. Case law and the Licensing Act

The Licensing Act 2003 is the Act of Parliament that establishes the statutory framework for regulating licensable activities in England and Wales. When cases are brought before the courts, the decisions can help us to interpret the Act.

When a case is decided by the courts the decision can provide an example of the interpretation of the Act. This can then be used to guide other committees and courts when they are making decisions on cases with similar facts.

It can be helpful for public heath teams contributing to a new case to look at previous decisions and to understand the judgments that have been passed down. This can help you to make a more convincing case.

As a rule, the higher the court, the more weight a judgment carries. For example, a decision in a magistrates' court may be persuasive but a decision in the Court of Appeal will be binding. This means that another committee or court can consider the judgment from the magistrates' court and decide differently, but they must follow the decision of the Court of Appeal.

When you are relying on the decision in a particular case it is important to refer to the judgment itself rather than commentary, because commentators can interpret the judgment in different ways – it is always best to quote what the judge actually said.

Case names will be set out as 'the name of the party that brought the claim' versus 'the name of the party that the claim was against', followed by the year, then the court it was brought to and the case number. This is known as a 'neutral citation', and will help you find the judgment.

For example, R (on application of Hope and Glory Public House Ltd) v City of Westminster Magistrates' Court and Others (2011) EWCA Civ 31 indicates that in 2011 Hope and Glory Public House Ltd brought a claim against Westminster Magistrates' Court which was heard in the Civil Division of the Court of Appeal of England and Wales, and was the 31st case of the year.

There have been many cases decided by the courts since the Act came into force, but those described below are most frequently relied on.

3. Hope and Glory Public House v City of Westminster Magistrates' Court and Others

R (on application of Hope and Glory Public House Ltd) v City of Westminster Magistrates' Court and Others (2011) EWCA Civ 312

This case, referred to as 'Hope and Glory', is essential reading for Responsible Authorities and licensing committees. It is relevant to most hearings.

The decision is important because it:

- illustrates that licensed premises, and the activities that take place in those premises, exist in a dynamic environment and should not be looked at entirely in isolation
- confirms that this can include the impact that licensable activities have on a range of factors such as crime, the quality of life for residents and visitors to the area, and demand for licensed premises

sets out the approach that should be taken when making licensing decisions

Lord Justice Toulson said:

Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on. Sometimes a licensing decision may involve narrower questions, such as whether noise, noxious smells or litter coming from premises amount to a public nuisance.

Although such questions are in a sense questions of fact, they are not questions of the 'heads or tails' variety. They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location. In any case, deciding what (if any) conditions should be attached to a licence as necessary and proportionate to the promotion of the statutory licensing objectives is essentially a matter of judgment rather than a matter of pure fact.

Responsible Authorities should be encouraged by this decision to make representations so that their information can be taken into account, and appropriate measures put in place for the licensing objectives to be promoted.

The full judgment is available from the <u>British and Irish Legal</u> Information Institute.

4. Daniel Thwaites plc v Wirral Magistrates' Court and Others

R (on application of Daniel Thwaites plc) v Wirral Magistrates' Court and Others (2008) EWHC 838 (Admin)

This case, referred to as 'the Thwaites case', is important because it emphasises the important role that Responsible Authorities have in providing information to decision makers to contextualise the issue before them.

This case is sometimes misconstrued as requiring decisions to be based on 'real evidence', and that conditions cannot be imposed until problems have actually occurred. This is wrong. The purpose of the Act is to prevent problems from happening. Decisions can and should be based on well-informed common sense. The case recognises that Responsible Authorities are experts in their fields, and that weight should be attached to their representations. It is most relevant when opposing grant applications.

The Honourable Mrs Justice Black said:

[D]rawing on local knowledge, at least the local knowledge of local licensing authorities, is an important feature of the Act's approach. There can be little doubt that local magistrates are also entitled to take into account their own knowledge but, in my judgment, they must measure their own views against the evidence presented to them. In some cases, the evidence presented will require them to adjust their own impression. This is particularly likely to be so where it is given by a Responsible Authority such as the police.

The approved judgment is available from Guildford Council.

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

Application for a premises licence to be granted 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.

apply Part 1	Insert of for a p	nan Jowhar Kahrahman name(s) of applicant) premises licence under section 17 of (the premises) and I/we are mal accordance with section 12 of th	king	this applica	tion 1	to you as the rel	emises describ levant licensin	ed i
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		market .ozells Road		REF NO S	M)00	0/ F849 114 - W	00612	
Pos		Birmingham				Postcode	B19 1RJ	
Tele	phone	number at premises (if any)	v	ia Agent				
Non	-domes	stic rateable value of premises	£4	,150				
Part 2	- Appl	licant Details						
Please	state v	whether you are applying for a pre	mises		ise tic	k as appropriate		
a)	an ii	ndividual or individuals *			\boxtimes	please comple	te section (A)	
b)	a pe	rson other than an individual *						
	i.	as a limited company				please comple	te section (B)	
	ii.	as a partnership				please comple	te section (B)	
	iii	as an unincorporated association	or			please comple	te section (B)	
	iv.	other (for example a statutory co	rpora	ntion)		please comple	te section (B)	
c)	a re	cognised club				please comple	te section (B)	
d)	a ch	narity				please comple	te section (B)	

(18)

c)	the pr	oprieto	rofau	educationa	al estab	lishmer	ıt		please comple	te section (B)	
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* If y	ou are	applyi	ng as a	person de	scribe	d in (a)	or (b) plo	ease c	onfirm;		
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A) IN	DIVID	UAL A	PPLIC	ANTS (fi	ll in as	applica	ble)				
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SECOND INDIVIDUAL APPLICANT (if applicable)

	Miss	Ms 🗌	Other Title (for example, Rev)	
Surname		First na	mes	5
I am 18 years old or o	over		☐ Plea	se tick yes
Current postal addres different from premis address				
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Part 3 Operating Schedule

	en do you want the premises licence to start?	ASAP	DD MM YYYY
S	ou wish the licence to be valid only for a limite want it to end?	d period, when do	DD MM YYYY
Plea	ase give a general description of the premises (p	olease read guidance	note 1)
sel	is premises is located on a busy main ection of food and drink items, serving to serve the community and give a fu	the local comm	unity. Its aim will always
	e premises will have a positive impact opliers, employees, customers, the en a.		
	000 or more people are expected to attend the p , please state the number expected to attend.	remises at any one	
What	licensable activities do you intend to carry on	from the premises?	
Plea	se see sections 1 and 14 of the Licensing Act 20	003 and Schedules 1	and 2 to the Licensing Act 2003)
Pro	vision of regulated entertainment		Please tick any that
			apply
a)	plays (if ticking yes, fill in box A)		apply
a) b)	plays (if ticking yes, fill in box A) films (if ticking yes, fill in box B)		apply
-35		pox C)	apply
b)	films (if ticking yes, fill in box B)	27 27 27 27 27 27 27 27 27 27 27 27 27 2	apply
b)	films (if ticking yes, fill in box B) indoor sporting events (if ticking yes, fill in b	27 27 27 27 27 27 27 27 27 27 27 27 27 2	apply
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b) c) d) e)	films (if ticking yes, fill in box B) indoor sporting events (if ticking yes, fill in boxing or wrestling entertainment (if ticking live music (if ticking yes, fill in box E) recorded music (if ticking yes, fill in box F)	yes, fill in box D)	
b) c) d) e) f) g)	films (if ticking yes, fill in box B) indoor sporting events (if ticking yes, fill in boxing or wrestling entertainment (if ticking live music (if ticking yes, fill in box E) recorded music (if ticking yes, fill in box F) performances of dance (if ticking yes, fill in anything of a similar description to that falling	yes, fill in box D) box G) g within (e), (f) or (
b) c) d) e) f) h)	films (if ticking yes, fill in box B) indoor sporting events (if ticking yes, fill in boxing or wrestling entertainment (if ticking live music (if ticking yes, fill in box E) recorded music (if ticking yes, fill in box F) performances of dance (if ticking yes, fill in anything of a similar description to that fallin (if ticking yes, fill in box H)	yes, fill in box D) box G) g within (e), (f) or (

J

Standar	of alcoho	d timings	Will the supply of alcohol be for consumption — please tick (please read guidance note 7)	On the premises	
(please 6)	read guida	ince note		Off the premises	\boxtimes
Day	Start	Finish		Both	
Mon	0730	0000	State any seasonal variations for the supply of alc guidance note 4)	ohol (please re	ad
Tue	0730	0000	and the second second		
Wed	0730	0000	the first the second second second		
Thurs	0730	0000	Non standard timings. Where you intend to use to supply of alcohol at different times to those listed		
Fri	0730	0000	left, please list (please read guidance note 5)		
Sat	0730	0000			
Sun	0730	0000			
	12 12				

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor:

Name.	
Saman Jowhar Kahraman	f Ball 6
Address	
fl	
Postcode	
Personal licence number (if known)	1 2 1 2 2 3 2 3 3 3 3 3 3 3 3 3 3 3 3 3
Issuing licensing authority (if known)	<u> </u>
	14

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8).

N/A

L

to the p	premises public rd days an read guid	d timings	State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	0730	0000	
Tue	0730	0000	
Wed	0730	0000	zhrant
Thurs	0730	0000	Non standard timings. Where you intend the premises to be open the public at different times from those listed in the column on the left, please list (please read guidance note 5)
Fri	0730	0000	
Sat	0730	0000	The state of the s
Sun	0730	0000	

M

Describe the steps you intend to take to promote the four licensing objectives:

a) General - all four licensing objectives (b, c, d and e) (please read guidance note 9)

The premises will be professionally supervised by the PLH/DPS at all times.

Staff training will be both comprehensive and reviewed on a regular basis, with records being retained at the premises; available for inspection by any Responsible Authority at reasonable notice. This training will be delivered by an appropriate qualified trainer; with all new members of staff will be trained within 2 months of starting employment.

The Premises Licence Holder shall ensure that the premises use a refusals log, which will be signed off on a regular basis by the PLH/DPS.

b) The prevention of crime and disorder

The Premises Licence Holder will ensure that CCTV is installed on the premises and WM Police will afforded full access to any recorded images. The Licence Holder shall ensure that the CCTV will be fitted correctly and that images will be held up to 31 days and these images will be made available upon request to any responsible authority.

The premises licence holder shall ensure the CCTV system is recording whenever the premises is open for licensable activities. CCTV will also be used to show the external area of the premises.

A refusals log will be kept at the premises and completed on any occasion an incident occurs, this will be made available to all Responsible Authorities on request.

c) Public safety

In accordance with the Licensing Act 2003, any person who appears drunk or heavily under the influence of alcohol will not be served.

The Premises Licence Holder shall ensure that all entrances, exits and passageways will be kept clear of debris or furniture, for ease of exiting the premises in the case of an emergency.

d) The prevention of public nuisance

The premises Licence Holder shall ensure that sufficient signage is displayed requesting customers to have regard for residents when leaving the premises.

The PLH and staff will ensure that regular litter picks take place at the frontage of the property, to ensure no debris is left as litter by customers.



e) The protection of children from harm

A "challenge 25" policy will be used for age verification, meaning any person who appears to be under 25 will be asked for approved proof of age when attempting to purchase alcohol.

Staff will be diligent in observing those who attempt to make proxy purchases on behalf of underage persons and alert the DPS should this occur.

Checklist:

Please	tick to	indicate	agreement

I have made or enclosed payment of the fee. \boxtimes \boxtimes I have enclosed the plan of the premises. I have sent copies of this application and the plan to responsible authorities and others \boxtimes where applicable. I have enclosed the consent form completed by the individual I wish to be designated \boxtimes premises supervisor, if applicable. I understand that I must now advertise my application. \boxtimes I understand that if I do not comply with the above requirements my application will be \boxtimes [Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom (please read note 15).

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING 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 4 - Signatures (please read guidance note 10)

Signature of applicant or applicant's solicitor or other duly authorised agent (see guidance note 11).

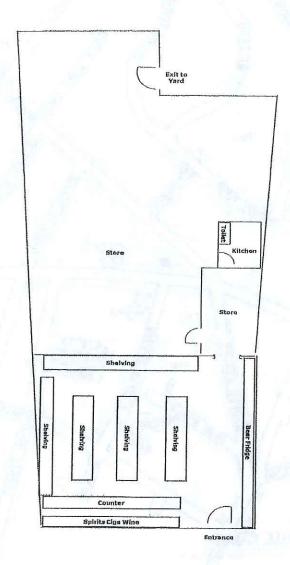
If signing on behalf of the applicant, please state in what capacity.

Signature		
Date	18 June 2018	
Capacity	Agent for and on behalf of the applicant	

For joint applications, signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 12). If signing on behalf of the applicant, please state in what capacity.

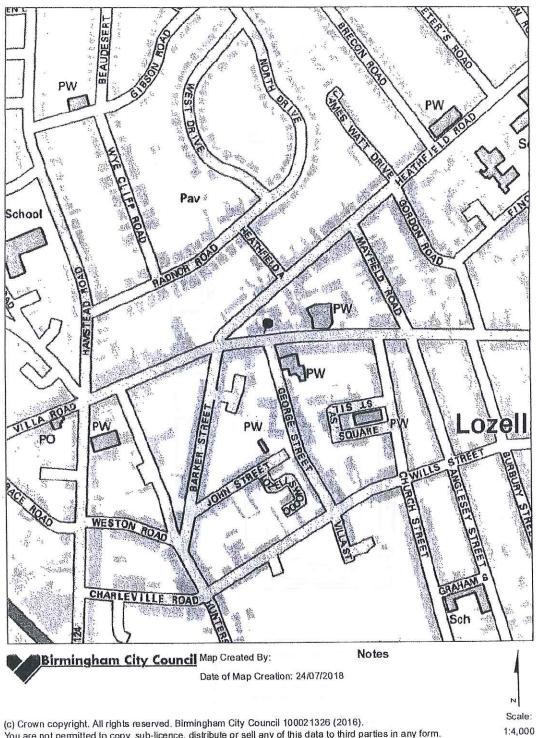
Signature	
Date	
Capacity	
application (please read guidance note 13) Robert V Edge Licence Leader Ltd	
Post town	Postcode

235-237 Lozells Road B19 1RJ



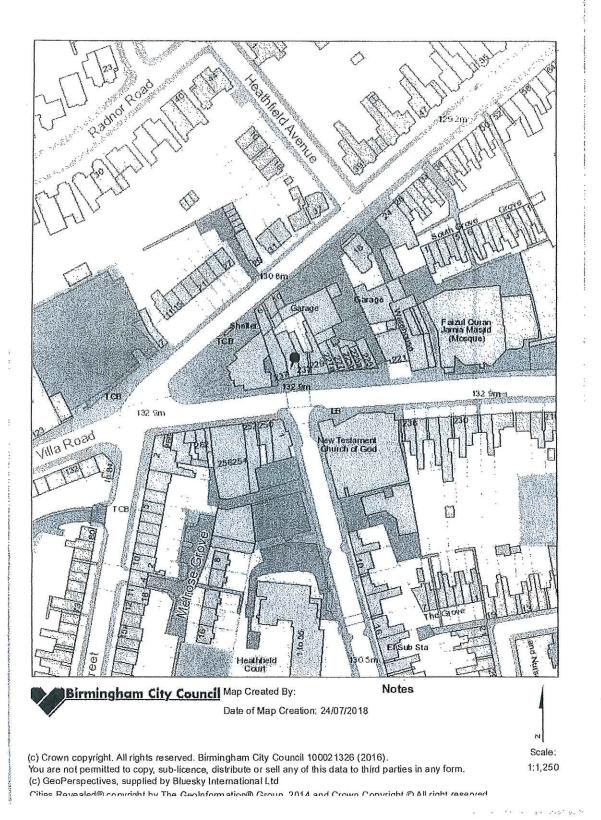
Version 01 – June 2018

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