

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Wednesday 26th September 2018
Subject:	Licensing Act 2003 Premises Licence – Transfer
Premises	Cloud Nine, 76 Gooch Street North, Birmingham, B5 6QU
Ward affected:	Bordesley & Highgate
Contact Officer	Bhapinder Nandhra, Senior Licensing Officer 0121 303 9896 licensing@birmingham.gov.uk

1. Purpose of report:

To consider an application to Transfer a Premises Licence.

2. Recommendation:

To consider and determine the Transfer Application.

3. Brief Summary of Report:

A transfer application was received on 16th August 2018 in respect of Cloud Nine, 76 Gooch Street North, Birmingham, B5 6QU.

An objection notice to this application has been received from West Midlands Police.

4. Compliance Issues:

4.1 Consistency with relevant Council Policies, Plans or Strategies:

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

5. Relevant background/chronology of key events:

An application to transfer a premises licence was received from Rahim Khan on 16th August 2018 in respect of Cloud Nine, 76 Gooch Street North, Birmingham, B5 6QU. Consent to transfer the licence was received from Mohammed Malik.

As the application sought to have immediate effect since the time of the application, Rahim Khan has been responsible for the provision of licensable activities at the premises, pending the determination of the transfer application by this Sub Committee.

In line with statutory requirements the application was served on West Midlands Police who have subsequently given an objection notice to the transfer application on the basis that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective under the Licensing Act 2003.

The premises licence was subject to a closure order application submitted by West Midlands Police. The closure order was the subject of a separate report presented to Licensing Sub Committee A on the 8th June 2018 following which the Sub Committee resolved to revoke the premises licence.

Rahim Khan's transfer application is attached, see Appendix 1.

West Midlands Police Notice of objection is attached at Appendix 2.

The current 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.

When holding a hearing to consider an objection notice under s44 (5) a licensing authority is confined to consideration of the crime prevention objective in the Licensing Act 2003. Members must therefore only consider matters that relate to the crime prevention objective.

6. List of background documents:

Transfer Application form, Appendix 1
West Midlands Police Objection, Appendix 2
Current Premises Licence, Appendix 3
Site location Plans, Appendix 4

7. Options available

To Grant the transfer application
To Reject the transfer application

Appendix 1



Birmingham
Application to transfer premises licence
Licensing Act 2003

For help contact
licensingonline@birmingham.gov.uk
Telephone: 0121 303 9896

* required information

Section 1 of 7

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference This is the unique reference for this application generated by the system.

Your reference You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

☒ Yes ☐ No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

* Family name

* E-mail

Main telephone number Include country code.

Other telephone number

☒ Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

☐ Applying as a business or organisation, including as a sole trader

☒ Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

BCC
REGULATION & ENFORCEMENT
LICENSING SECTION
DATE RECEIVED

16 AUG 2018

REF NO

INITIALS

Continued from previous page...

Address

* Building number or name	<input type="text"/>
* Street	<input type="text"/>
District	<input type="text"/>
* City or town	<input type="text"/>
County or administrative area	<input type="text"/>
* Postcode	<input type="text"/>
* Country	<input type="text" value="United Kingdom"/>

Agent Details

* First name	<input type="text" value="Louis"/>	
* Family name	<input type="text" value="Stelling"/>	
* E-mail	<input type="text"/>	
Main telephone number	<input type="text"/>	Include country code.
Other telephone number	<input type="text"/>	

☒ Indicate here if you would prefer not to be contacted by telephone

Are you:

- ☒ An agent that is a business or organisation, including a sole trader
☐ A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

Agent Business

Is your business registered in the UK with Companies House? ☒ Yes ☐ No

Note: completing the Applicant Business section is optional in this form.

Registration number	<input type="text" value="09008239"/>
Business name	<input type="text" value="Coleridge Law Limited"/>
VAT number	<input type="text" value="256133320"/>
Legal status	<input type="text" value="Private Limited Company"/>
Your position in the business	<input type="text" value="Consultant"/>
Home country	<input type="text" value="United Kingdom"/>

If your business is registered, use its registered name.

Put "none" if you are not registered for VAT.

The country where the headquarters of your business is located.

Continued from previous page...

Agent Registered Address

Address registered with Companies House.

Building number or name	<input type="text"/>
Street	<input type="text"/>
District	<input type="text"/>
City or town	<input type="text"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text"/>
Country	<input type="text" value="United Kingdom"/>

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PREMISES DETAILS

I/we, as named in section 1, apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in section 2 below.

Premises Licence

* Premise licence number

Name Of Current Premises Licence Holder

* Name

Premises Address

Are you able to provide a postal address, OS map reference or description of the premises?

☒ Address ☐ OS map reference ☐ Description

Building number or name	<input type="text" value="66-76"/>
Street	<input type="text" value="Gooch Street North"/>
District	<input type="text"/>
City or town	<input type="text" value="Birmingham"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text" value="B5 6QU"/>
Country	<input type="text" value="United Kingdom"/>

Further Details

Please give a brief description of the premises

<input type="text" value="Shisha Lounge"/>
--

Continued from previous page...

Telephone number at the premises if any

Section 3 of 7

APPLICATION DETAILS

In what capacity are you applying for the premises licence to be transferred to you?

- ☒ An individual or individuals
- ☐ A limited company/limited liability partnership
- ☐ A partnership (other than limited liability)
- ☐ An unincorporated association
- ☐ A recognised club
- ☐ A charity
- ☐ The proprietor of an educational establishment
- ☐ A health service body
- ☐ A person who is registered under part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales
- ☐ A person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England
- ☐ The chief officer of police of a police force in England and Wales
- ☐ Other (for example a statutory corporation)

Please confirm the following:

- ☒ I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
- ☐ I am making the application pursuant to a statutory function
- ☐ I am making the application pursuant to a function discharged by virtue of Her Majesty's prerogative

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INDIVIDUAL APPLICANT DETAILS

Applicant Name

Is the name the same as (or similar to) the details given in section one?

☒ Yes

☐ No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

First name

Rahim

Family name

Khan

Continued from previous page...

Is the applicant 18 years of age or older?

☐ Yes ☐ No

Applicant Postal Address

Is the address the same as (or similar to) the address given in section one?

☒ Yes ☐ No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Applicant Contact Details

Are the contact details the same as (or similar to) those given in section one?

☒ Yes ☐ No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

E-mail

Telephone number

Other telephone number

* Date of birth / /
dd mm yyyy

* Nationality

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FURTHER INFORMATION

Are you the holder of the premises licence under an interim authority notice?

☐ Yes ☒ No

Do you wish the transfer to have immediate effect?

☒ Yes ☐ No

Have you attached the consent form signed by the existing premises licence holder?

☒ Yes ☐ No

Continued from previous page...

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003)?

☒ Yes ☐ No

Have you attached the previous licence?

☐ Yes ☒ No

Please enter your reasons

Access to the premises is currently restricted
--

Section 6 of 7

NOTES ON DEMONSTRATING ENTITLEMENT TO WORK IN THE UK

Continued from previous page...

Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this by providing with this application copies or scanned copies of the following documents (which do not need to be certified).

Documents which demonstrate entitlement to work in the UK

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is A British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **full** birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.

Continued from previous page...

- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relation to the carrying on of a licensable activity.
- A **current** Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:-
 - evidence of the applicant's own identity – such as a passport,
 - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
 - evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
 - (i) working e.g. employment contract, wage slips, letter from the employer,
 - (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
 - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
 - (iv) self-sufficient e.g. bank statements.

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

Original documents must not be sent to licensing authorities. If the document copied is a passport, a copy of the following pages should be provided:-

- (i) any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.

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PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

This formality requires a fixed fee of £23

Continued from previous page...

DECLARATION

I/WE UNDERSTAND THAT 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.

[APPLICABLE TO INDIVIDUAL APPLICANTS ONLY, INCLUDING THOSE IN A PARTNERSHIP WHICH IS NOT A LIMITED
LIABILITY PARTNERSHIP, BUT NOT COMPANIES OR LIMITED LIABILITY PARTNERSHIPS] I UNDERSTAND I AM NOT ENTITLED
* TO BE ISSUED WITH A LICENCE IF I DO NOT HAVE THE ENTITLEMENT TO LIVE AND WORK IN THE UK (OR IF I AM SUBJECT
TO A CONDITION PREVENTING ME FROM DOING WORK RELATING TO THE CARRYING ON OF A LICENSABLE ACTIVITY) AND
THAT MY LICENCE WILL BECOME INVALID IF I CEASE TO BE ENTITLED TO LIVE AND WORK IN THE UK. I HAVE INCLUDED
DOCUMENTS DEMONSTRATING MY ENTITLEMENT TO WORK IN THE UK (PLEASE SEE NOTES ON ENTITLEMENT TO WORK IN
SECTION 6).

☒ Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name
* Capacity
* Date / /
dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/birmingham/change-3> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

Consent of premises licence holder to transfer

I/we MOHAMMED MALIK
[full name of premises licence holder(s)]

the premises licence holder of premises licence number 4534
[insert premises licence number]

relating to

CLONO NING, 76 LOUCH STREET NORTH, BIRMINGHAM, B5 8PU
[name and address of premises to which the application relates]

hereby give my consent for the transfer of premises licence number

4534
[insert premises licence number]

to

Rahim Jamil Khan
[full name of transferee]

signed _____

name
(please print) MOHAMMED MALIK

dated 15/08/2018

Appendix 2

From: Abdool Rohomon ·
Sent: 29 August 2018 15:06
To: Licensing
Cc: ·
Subject: Cloud Nine - premise licence transfer

Dear Licensing,

West Midlands Police have received the application for the transfer of the premise licence for Cloud Nine by a Mr Rahim Khan. Cloud Nine was subject to a closure order under the Anti-Social Behaviour Act following serious concerns around the operation of the premises. This included vulnerability concerns, the supply of psychoactive substances to minors, the venue being used for events that caused significant crime and disorder and anti-social behaviour and a blatant attitude towards the safety of people attending the venue (including closing the shutter when open to prevent responsible authority from accessing and breaching enforcement action taken by West Midlands Fire Service). Following the closure order being made the premise licence was reviewed and it was shown that the events had led to the significant undermining of the licensing objectives, which resulted in the licence being revoked.

West Midlands Police have serious concerns that the crime and disorder objective will or is likely to be breached should the transfer be allowed. There is no operating schedule required with such an application and so West Midlands Police are not able to determine if the threat that the premises posed has been addressed and that the licensing objectives will be promoted correctly. It should be noted that Mr Khan has submitted a fresh application which is being administered, and West Midlands Police feel this is the most appropriate course to take considering the history of the premises, so that the proper scrutiny of the operating schedule by all responsible authorities can be undertaken..

West Midlands Police therefore object to this application on the grounds as above and that it will likely lead to the crime and disorder objective being undermined

West Midlands Police therefore request a hearing

regards

Abs Rohomon

**PC 4075 Rohomon
BW Licensing
Police headquarters
Lloyd House**

Appendix 3

BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003

PREMISES LICENCE

Premises Licence Number:

4534 / 1

Part 1 - Premises details:

Postal address of premises, or if none, ordnance survey map reference or description

Cloud Nine
76 Gooch Street North

Post town:

Birmingham

Post Code:

B5 6QU

Telephone Number:

Not Specified

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

D	Boxing or Wrestling Entertainment
E	Live Music
F	Recorded Music
G	Performance of Dance
L	Late Night Refreshment

The times the licence authorises the carrying out of licensable activities

Monday - Thursday	11:00	-	01:00	D ,E ,F ,G
	23:00	-	01:00	L
Friday - Sunday	11:00	-	02:00	D ,E ,F ,G
	23:00	-	02:00	L

The opening hours of the premises

Monday - Thursday	11:00	-	01:00
Friday - Sunday	11:00	-	02:00

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

N/A

BIRMINGHAM CITY COUNCIL

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Mr Mohammed Malik	
Post town:	Post Code:
Telephone Number:	
Email	

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 N/A N/A	
Post town: N/A	Post Code: N/A
Telephone Number: N/A	

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol	
Licence Number N/A	Issuing Authority N/A

Dated 08/07/2016

SHAID YASSER
Senior Licensing Officer
For Director of Regulation and Enforcement

BIRMINGHAM CITY COUNCIL

Annex 1 – Mandatory Conditions

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

BIRMINGHAM CITY COUNCIL

Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

Regulated entertainment shall take place indoors only.

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

The premises licence holder shall install and maintain a CCTV system inside and outside the premises. CCTV recordings shall be provided to the Police upon request.

A search policy will be implemented at the premises.

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

SIA registered door supervisors will be present at the premises on the weekends.

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

Notices shall be displayed at the premises requesting customers to have regard for neighbours.

The premises shall have a noise limiter and audio devices to ensure the level of amplified music is controlled.

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

Persons under the age 18 shall not be permitted to the premises.

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Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

Conditions as stated below under the appropriate objective set by Licensing Sub Committee B on Tuesday 21st June 2016:

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

Alcohol will not be permitted to be drunk on the premises, or brought onto the premises

If staff believe that customers have alcohol in their possession they will be asked to submit to a search. If they decline or are found to be in possession of alcohol they will be refused entry or asked to leave the premises.

A record of all searches will be kept at the premises and produced to Officers on request

A refusal of entry log will be kept at the premises and produced to Officers on request

Door supervisors will be on duty at the premises on Friday and Saturday nights between the hours of 22:00 and closing. Also at any times that the Premises holds a Special Event

Door Supervisors will wear High Visibility Jackets.

Door Supervisors will wear their SIA badge in a position where it can clearly be seen.

Door Supervisors will sign in and out of a register at the start and finish of each shift. The register must be kept on the premises and produced to Officers on request.

A Profile for each Door supervisor must be kept at the premises and be available for inspection by Officers on request. The profile must contain:

- A copy of the Door Supervisors SIA Badge
- Photographic ID (Passport or DVLA Licence)
- Proof of address dated within the last 6 months (Utility Bill or DVLA)
- Profiles must be kept at the premises for 6 months from the date of the Door Supervisors last shift.

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

No one under the age of 18 is permitted on the premises after 18:00 hours

Challenge 25 will be promoted at the premises. Staff will be trained in Challenge 25 and signage will be displayed.

Any person attempting to enter the premises, or make a purchase from the premises, will be asked to prove they are over 18 if they look under 25.

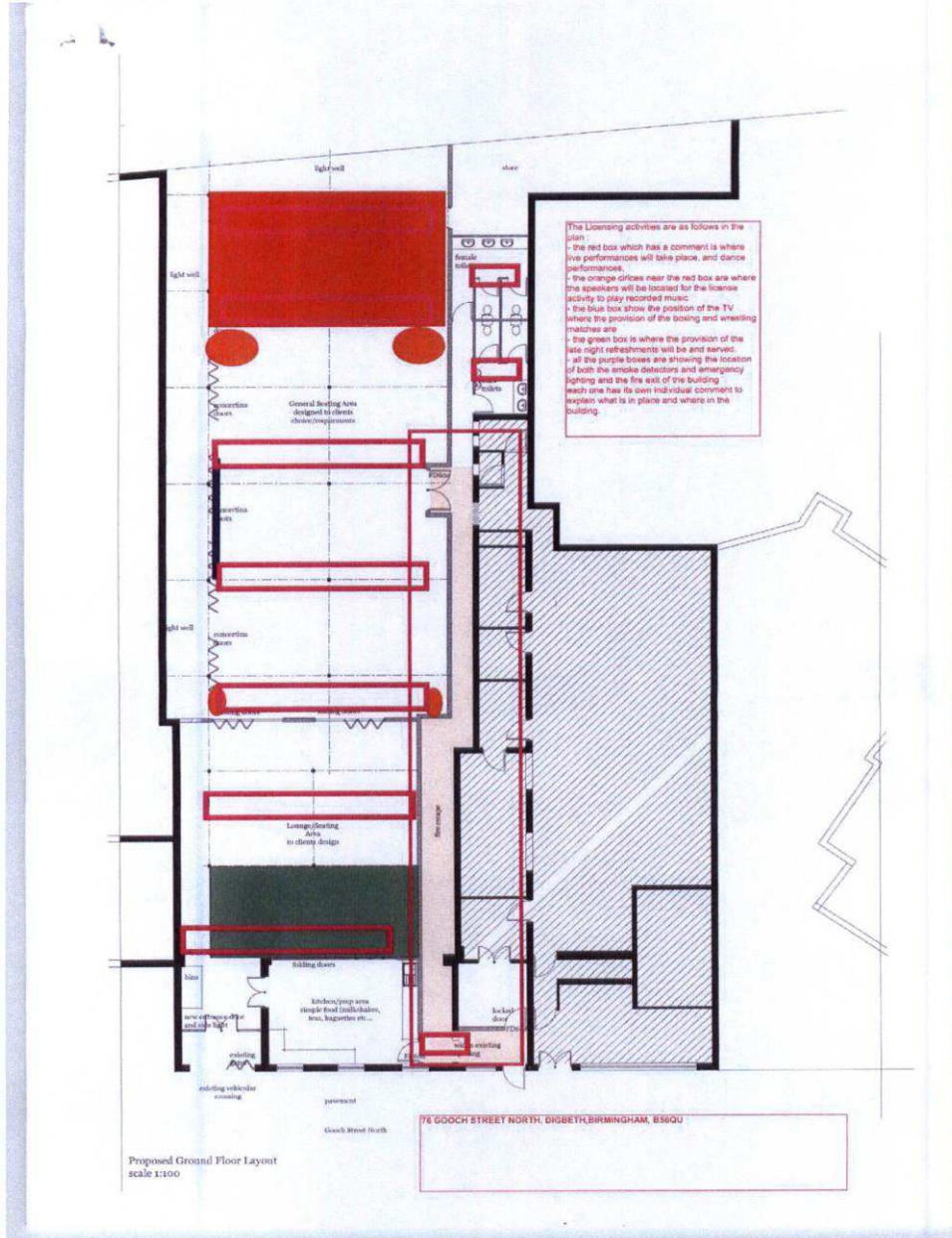
BIRMINGHAM CITY COUNCIL

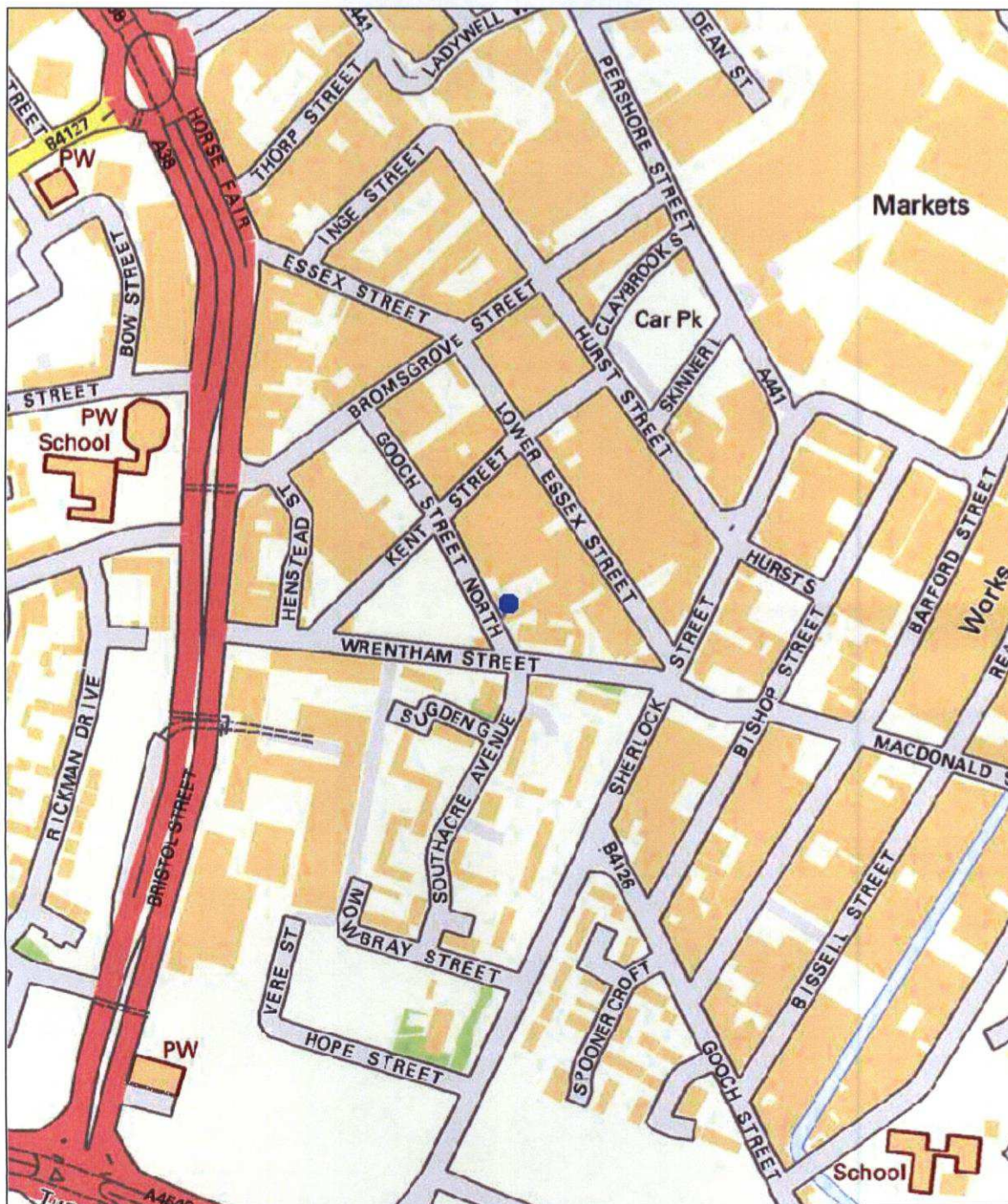
The only forms of Identification which will be accepted are Passport or DVLA Licence.

A record of all refusals will be kept in the refusals log.

The premises will have a working CCTV system consisting of a minimum of 20 cameras. The system will be recording at all times when the premises are open for business. Images must be made available to Officers on request.

Annex 4 – Plans





Map Created By:

Date of Map Creation: 06/09/2018

Notes



Scale:
1:4,000

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Birmingham City Council

Map Created By:

Notes

Date of Map Creation: 06/09/2018



Scale:
1:1,250

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