

Agenda

Licensing Sub Committee 1

Tuesday, 24 August 2021 at 10.00 am
At Council Chamber - Sandwell Council House, Oldbury

This agenda gives notice of items to be considered in private as required by Regulations 5 (4) and (5) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

- | | | |
|----------|--|-----------------|
| 1 | Apologies for Absence | 7 - 8 |
| | Members to declare any interests in matters to be discussed at the meeting. | |
| 2 | Declarations of Interest | 9 - 10 |
| | Members to declare any interests in matters to be discussed at the meeting. | |
| 3 | Minutes | 11 - 24 |
| | To confirm the minutes of the meetings held on 21 June 2021 and 28 June 2021 as a correct record. | |
| 4 | Review of a Premises Licence under Section 167 of the Licensing Act 2003 in respect of Waggon & Horses Pub, 83 Lewisham Road, Smethwick B66 2DD | 25 - 242 |
| | Consider the review of a premises licence following a Closure Order, under Section 80(5) | |



Anti-Social Behaviour Crime & Policing Act 2014.

Kim Bromley-Derry CBE DL
Interim Chief Executive
Sandwell Council House
Freeth Street
Oldbury
West Midlands

Distribution

Councillor Allen (Chair)
Councillors W Gill, Hussain, Jones and Singh

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Licensing Sub Committee 1

Apologies for Absence

To receive any apologies for absence from the members of the Committee.



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Licensing Sub Committee 1

Declarations of Interests

Members to declare any interests in matters to be discussed at the meeting.



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Minutes of Licensing Sub Committee 1

21 June 2021 at 10:00am

In Council Chamber at Sandwell Council House, Oldbury

Present: Councillor Allen (Chair)
Councillors Piper and Rouf.

In attendance: Councillors W Gill, Fenton and R Jones.
(observing)

Also Present: Harjinder Singh Bagri (Premises Licence Holder), Patrick Burke (Premises Licence Holder's representative), Makhan Singh Gosal (Licensing Officer), Geeta Bangerh (Licensing Officer), Balbir Dhugga (Licensing Officer), David Elliott (Solicitor), Trisha Newton (Senior Democratic Services Officer), Connor Robinson (Democratic Services Officer) and Gabrielle Evans (Democratic Services Officer).

19/21 **Declarations of Interest**

There were no declarations of interest made at the meeting.

**Matters Delegated to the Sub Committee to exercise
Those functions of the Licensing Committee under the
Licensing Act 2003 and any regulations made under that Act,
together with any related functions**



Resolved that the minutes of the meeting held on 22 March 2021 be confirmed as a correct record.

21/21 **Application for a new Premises Licence at Old Mill, Rydding Lane, West Bromwich**

The Sub Committee considered an application for a new premises licence in respect of Old Mill, Rydding Lane, West Bromwich, following receipt of representations from the Police, the Fire Authority, residents and local ward members.

The licensable activities in relation to the application were plays, films, live music, recorded music, performance of dance, anything similar to that falling within the previous activities (on premises) Monday - Sunday 08.00 - 02.00 hours, late night refreshment (on premises) Monday - Sunday 23.00 - 02.00 hours, sale of alcohol (on/off premises) 08.00 – 02.00 hours. The proposed hours the premises would be open to the public was Monday - Sunday 07.00 - 02.30 hours.

The premise would be a Public House Bar and Grill, and would be predominantly offering breakfast, lunch and dinner. The premises would also be used for private functions such as weddings, birthdays and funerals.

The Chair advised that there had been significant changes to the application since it had been submitted, following representations from the Police. The applicant had agreed to a number of new amendments to the licence, including:-

- closure time of 00:30 hours;
- all regulated entertainment ending at 23:00 hours;
- no outside bar or entertainment;
- risk assessment to be carried out for private parties and functions;
- door staff to be in use with a sign in register on commencement and end of duty to include name and contact information, register maintained on site available for inspection;
- female members of door staff;
- search policy in place on the premises.



Residents in attendance raised the following objections:-

- the Police were unable to cope with the crime levels in the local area and questioned whether the licence could be granted on a trial period;
- holding weddings would cause parking issues and the venue had been extended out into the car park, further reducing its capacity;
- the smoking area and beer garden had previously been a nuisance for residents as the area backed onto the gardens of several families.

The applicant's representative addressed the Committee as follows:-

- the licence had previously been surrendered without the applicant's knowledge. The applicant planned to open the premises as a bar and grill rather than pub. There was previously very little control of the licence under the pub company - it would now be a family run business with an approachable owner;
- the applicant had opted to include private function use in the application, however, they were unsure of the demand for events. There was a large overflow car park at the back of the building to accommodate parking;
- the representative apologised on his clients behalf for upsetting residents with the initial application and didn't anticipate having the same issues as the previous licensee due to the way the premises would be run.

It was confirmed that the Sub Committee could not issue the licence on a trial period, however, in the event that there were any future issues, the Sub-Committee was able to review the licence at any time should residents trigger a review of the premises licence.

In response to comments raised by the Sub Committee, members were advised:-

- members identified that the current CCTV was ineffective as there was no coverage in the function room or the lounge. Complete coverage would needed including the entrance and exit areas and this would need be agreed with West Midlands Police. It was confirmed that there would be 32 cameras installed on the premises;



- the outside area would be used as a beer garden and outside seating for the restaurant - alcohol would be limited until 10pm;
- the capacity of the venue was approximately 130, not including the function room.

The Committee took advice from its legal advisor before adjourning to make a decision.

Having considered all the information before them, the Sub Committee was minded to grant the premises licence in respect of Old Mill, Rydding Lane, West Bromwich, B71 2EX for the following reasons:

1. This was a new application for a premises licence with no adverse record of managing premises licences being reported to the Licensing Sub-Committee as regards this applicant.
2. The central issue was a closing down time of around 2.30am for a premises in a residential location with licensable activities ceasing at 2.00am. This had been amended so that broadly licensable activities conclude at 12 midnight and the premises close at 12.30am. This important amendment met with the approval of concerned residents. The Police withdrew their objection on the strength of it.
3. The applicant had volunteered additional conditions and had undertaken to comply with all the requirements of the West Midlands Fire Service before the Premises open.

Resolved that the Premises Licence in respect of Old Mill, Rydding Lane, West Bromwich, B71 2EX be granted, subject to the following additional conditions being imposed:-

- (1) the sale and supply of alcohol is permitted from 8am to Midnight Monday-Sunday;
- (2) regulated entertainment being plays, films, live music, recorded music, dance and similar is permitted from 8am to 11pm Monday-Sunday;
- (3) the premises are permitted to open from 7am to 12.30pm Monday-Sunday;



- (4) CCTV provision to be agreed with West Midlands Police, in consultation with the Sub-Committee Chair before the premises open to the public;
- (5) there is to be no sale or supply of alcohol or the provision of regulated entertainment in the outside drinking area;
- (6) the plan accompanying the application should be amended to clearly show the outside area indicating that licensable activities are not to take place in this area;
- (7) there is to be no consumption of alcohol permitted in the outside area after 10pm;
- (8) a risk assessment is to be carried out with regard to any private parties or functions held at the premises, to include the provision of door supervisors for the function or party with a minimum of two door staff on duty including a female door supervisor for private parties and functions;
- (9) when door staff are in use at the premises the door staff will sign a register at commencement of duty and will sign off at the end of the duty, register to include the full name of door supervisor, their SIA badge number and contact telephone number for the door supervisor. The register will be maintained on site and available to the Police and any responsible authority for inspection purposes;
- (10) a search policy will be in place at the premises and will be directed by SIA staff at the entrance of the premises;



- (11) the Operating Schedule is to be incorporated as conditions attached to the Premises Licence subject to any subsequent agreed conditions (eg CCTV provision) taking precedence over what was originally included in the Operating Schedule if inconsistent with it.

In making its decision the Sub Committee took into account the Licensing Act itself, the Section 182 Guidance and noted that it must carry out all its functions under the Act with a view to promoting the licensing objectives. It also took into account the Human Rights Act 1998.

The Premises Licence Holder would be advised of his right of appeal under section 53c of the Licensing Act 2003 to the Magistrates Court within 21 days of receipt of the decision letter.

Meeting ended at 12:10pm

Contact: democratic_services@sandwell.gov.uk



Minutes of Licensing Sub Committee 1

Monday 28 June 2021 at 10.00am
at The Council Chamber, Sandwell Council House, Oldbury

Present: Councillor Allen (Chair);
Councillors Piper and Rouf.

Officers: Usha Devi (Senior Licensing Officer)
David Elliott (Solicitor)
Trisha Newton (Senior Democratic Services Officer)
Connor Robinson (Democratic Services Officer)
Gabrielle Evans (Democratic Services Officer)

22/21 **Apologies for Absence**

Apologies were received from Councillors W Gill, Z Hussain, O Jones and K Singh.

23/21 **Declarations of Interest**

No interests were declared at the meeting.

24/21 **Minutes**

Resolved that the minutes of the meeting held on 20 April 2021 be confirmed as a correct record.



25/21 **Exclusion of Public and Press**

Resolved that the public and press be excluded from the rest of the meeting to avoid the possible disclosure of exempt information under Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order, 2006, relating to any individual and information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Matters Delegated to the Sub Committee to consider Local Government (Miscellaneous Provisions) Act 1976 – Private Hire Driver’s/Vehicles/Operators Licensing related matters

26/21 **Application for the Review of a Dual Private Hire and Hackney Carriage Driver’s Licence in respect of Mr A K**

Members considered an application for the review of a Dual Private Hire and Hackney Carriage Driver’s Licence in respect of Mr A K.

Mr A K was in attendance and had not previously appeared before the Licensing Sub Committee.

The Sub Committee was advised that Mr A K had been referred following a complaint received regarding driver conduct and behaviour whilst licensed with Wolverhampton City which related to the refusal to carry a guide/assistant dog in early September 2019.

Mr A K had been informed in November 2019 that his Wolverhampton City Council private hire vehicle licence was under review following the incident, and the decision was taken to revoke his licence. Mr A K had informed Sandwell Licensing Office in early December 2019 of his revocation. Mr A K had subsequently been convicted at Birmingham Magistrates in mid-October 2020 and had failed to report this conviction within 7 days as was a condition of his licence.



It was also reported that Mr A K had not supplied the Licensing Officer with the necessary medical assessment required by drivers. Mr A K stated that he had supplied Sandwell Hospital with the necessary documentation and the Licensing Officer undertook to follow this up.

With regard to the incident, Mr A K explained that the guide dog entering the vehicle had surprised him. During his childhood he had been attacked by a dog. A medical statement in support of the claim was circulated.

Mr A K did not have a Medical Exemption from any Local Authority excusing him from carrying guide dogs. Mr A K stated that he had no issue with dogs and had carried them previously in his vehicle. On the occasion of the incident however Mr A K argued that the manner in which the guide dog entered the car had startled him.

The Sub Committee took advice from its Legal Advisor before adjourning to make a decision on the application.

The Sub Committee was minded to revoke Mr A K's Dual Private Hire and Hackney Carriage Driver's Licence. The starting point of the Sub Committee was Council policy; refusing the fare and not carrying the disabled person accompanied by a guide dog was against that policy. Mr A K had also failed to inform the Licensing Office of his conviction within 7 days as was a requirement of licence.

Resolved that the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr A K be revoked.

In making the decision the Committee had regard to the Local Government (Miscellaneous Provisions) Act 1976, Council Policy and Guidelines, relevant case law and the Human Rights Act 1998.

Mr A K would be advised of his right to appeal to the Magistrates Court within 21 days of receiving the decision letter.



27/21

Application for the Review of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr F A

Members considered an application for the review of a Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr F A.

Mr F A was in attendance at the meeting and had not appeared before the Committee before.

The Sub Committee was advised that Mr F A had breached the conditions of licence after being convicted of plying for hire and no insurance. Mr F A had not reported his potential conviction following the plying for hire incident, that had occurred in late-November 2019, and the Licensing Office had only been informed of this by Birmingham City Council's Licensing Office in mid-January 2020. Mr F A reported his conviction of the offence in late-November 2020 which was not within the 7-day period as was a condition of licence.

Mr F A explained that he was sorry for the incident. He had dropped off a passenger and, following a request from a couple accepted to take them to their destination, it was at this point that they announced themselves as Birmingham Licensing Officers. Asked to explain why he had not communicated the offence to Licensing Office Mr F A claimed that he had tried but had had no response.

Stressing the importance of following the licensing guidelines and the conditions of licence, Mr F A was asked if he understood them and consequence of plying for hire and not reporting the incident within the allotted time. Mr F A said that he had read and understood them but, on that occasion, had forgot.

The Sub Committee took advice from its Legal Advisor before adjourning to make a decision on the application.

The Committee was minded to revoke Mr F A's Dual Private Hire and Hackney Carriage Driver's Licence. Members saw no reason to depart from Council policy.



Resolved that the Dual Private Hire and Hackney Carriage Driver's Licence in respect of Mr F A be revoked.

In making the decision the Committee had regard to the Local Government (Miscellaneous Provisions) Act 1976, Council Policy and Guidelines, relevant case law and the Human Rights Act 1998.

Mr F A would be advised of his right to appeal to the Magistrates Court within 21 days of receiving the decision letter.

28/21

Application for the Review of a Private Hire Driver's Licence in respect of Mr R K

Members considered an application for the Review of a Private Hire Driver's Licence in respect of Mr R K.

Mr R K was in attendance and had not previously appeared before the Committee. Mr R K was joined by his legal representative and his wife, for support.

The Committee was advised that the Licensing Office had been made aware of an incident involving Mr R K in early January 2021.

West Midlands Police had advised the Licensing Office that Mr R K had admitted the offence and that it was understood to be part of a longstanding domestic dispute. Being Mr R K's first offence the Police with the aggrieved parties' consent agreed to a Community Resolution Order. The committee were advised that West Midlands Police did not consider Mr R K a threat to the public and that the matter had been resolved at the end of January 2021.

Mr R K's representative spoke on behalf of his client and advised that Mr R K was not proud of the incident and regretted his actions that day. On the day of the incident Mr R K had snapped and acted out of frustration.



With an agreement between the applicant, the owner of the affected vehicle and the Police, an apology had been given and a Community Resolution had been reached.

The Sub Committee took advice from its Legal Advisor before adjourning to make a decision on the application.

The Committee was minded to issue a written warning regarding Mr R K's future conduct. The Committee recognised the matter as a domestic dispute and took into consideration the community resolution.

Resolved that the Private Hire Driver's Licence in respect of Mr F A issued with a written warning regarding his future conduct.

29/21

Application for the Review of a Private Hire Driver's Licence in respect of Mr M R

Members considered an application for the renewal of a Private Hire and Hackney Carriage Driver's Licence in respect of Mr M R.

Mr M R was in attendance at the meeting and this was the third time Mr M R had attended committee.

The Sub Committee was advised that Mr M R had driving offences which accumulated to 9 points (3 points in mid-July 2019 for an exceeding statutory speed limit (SP30) offence, and 6 points in mid-December 2019 for driving without due care and attention (CD10) offence) on his DVLA driving record. Along with failing to notify the Licensing Office of convictions, fixed penalties, cautions, reprimands (including those under current investigation by the Police) within the required 7 days as is a condition of licence.

The Committee was advised on the CD10 incident that took place in mid-December 2019. In late-December 2019 Mr M R had contacted the Licensing Office to report a collision regarding a teenage girl and his vehicle while he was parked.



The Sub Committee took advice from its Legal Advisor before adjourning to make a decision on the application

The Committee was concerned about the driver's understanding of the questions put to him and also clarity on what had actually happened. Committee members also wished to view the evidence before making a decision. It was decided that the decision be deferred to enable officers to obtain the evidence requested.

Resolved that the application for the renewal of the Private Hire Driver's Licence in relation to Mr M R be deferred for consideration at a future meeting.

Meeting deferred at 2.45pm

Contact: democratic_services@sandwell.gov.uk



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Report to Licensing Sub Committee 1

24 August 2021

Subject:	Review of a Premises Licence under Section 167 of the Licensing Act 2003 in respect of Waggon & Horses Pub, 83 Lewisham Road, Smethwick B66 2DD
Director:	Director – Borough Economy – Nicholas Austin
Contact Officer:	Makhan Singh Gosal, Senior Licensing Officer licensing_team@sandwell.gov.uk

1 Recommendations

1.1 That Licensing Sub-Committee 1:

Consider the review of a premises licence following a Closure Order, under Section 80(5) Anti-Social Behaviour Crime & Policing Act 2014.

2 Reasons for Recommendations

2.1 To advise members of an application made under Section 167 of the Licensing Act 2003. The Licensing Authority has received notification from the Magistrates Court of a Closure Order under Section 80 (5) of the Anti-Social Behaviour Crime & Policing Act 2014. This has triggered a Licensing Review under Section 167 of the Licensing Act 2003.



3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 On 11th August Sandwell MBC applied for a Closure order in the Magistrates Court, under Section 80(5) of the Anti-Social Behaviour Crime & Policing Act 2014.
- 3.2 The Premises were identified as a nuisance to the public because of their poor structural condition following a survey of the premises under warrant powers on the 22 July 2021. A risk of collapse was identified causing a safety threat to those within and nearby the Building. Accordingly, an application was made to Dudley Magistrates Court on the 11th August 2021. The Magistrates granted a Closure Order under Section 80(5) of the Anti-Social Behaviour Crime and Policing Act 2014 after hearing the application on the basis that the premises were and if an order were not made would be on the balance of probabilities a nuisance to the public.
- 3.3 This Order imposes a duty upon the Licensing Authority to conduct a Review of the Premises Licence through its Licensing Sub-Committee under Section 167 of the Licensing Act 2003. The facts surrounding the Closure Order indicate the Public Nuisance Licensing Objective is engaged.

The Licensing Sub-Committee after hearing the review can

- Modify the Conditions of the Premises Licence
- Exclude a Licensable Activity from the scope of the licence
- Remove the Designated Premises Supervisor
- Suspend the Licence for a period not exceeding 6 months or
- Revoke the Licence
- Take no action

- 3.4 The Closure Order is in force for a period of 3 months from the date of this order, until 12pm on 11 November 2021.
- 3.5 A copy of the Notice of Hearing and a copy of the Closure was served on the Premises Licence Holder, at the address given on the licence, also via email.
- 3.6 A copy of the Notice of Hearing and a copy of the Closure order has been circulated to the Responsible Authorities.



3.7 The review under Section 167 of the Licensing Act 2003 has been triggered following a Closure Order under Section 80(5) of the Anti-Social Behaviour Crime & Policing Act 2014.

4 THE CURRENT POSITION

4.1 The licence was granted on 15 October 2005

4.2 The licence was transferred to Mr Jasbinder Singh Kang on 25 February 2016.

4.3 The current Designated Premises Supervisor is Mr Amandeep Singh Shanker. Mr Shanker was specified as DPS on 15 October 2005

4.4 The hours permitted for Licensable Activities are 10:00 to 02:00 Monday to Sunday. The hours will be extended at the end of licensed hours on New Years Eve to the start of licensed hours on New Year's Day.

4.5 The opening hours of the premises are an additional 30 minutes.

4.6 A copy of the current licence is attached at Appendix 1.

4.7 A copy of the Closure order is attached as Appendix 2.

4.8 The location of the premises can be seen on the location map provided which is attached at Appendix 3.

5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

5.1 The Licensing Team have displayed a public notice on or near the premises outlining the application and inviting comments/representations to be sent to the Licensing Authority in respect of the full review, detailing a closing date for these to be received. Details of the application have also been published on the Council's website.

5.2 Under the Licensing Act 2003, a responsible authority or any other person may make representations in respect of the application which must be relevant to one or more of the four licensing objectives, namely:

- The Prevention of Crime and Disorder



- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

6 ALTERNATIVE OPTIONS

- 6.1 The options available to the Licensing Sub Committee having considered all the relevant information are as follows:
- To modify the conditions of the licence
 - To exclude the sale of alcohol by retail from the scope of the licence
 - To remove the designated premises supervisor
 - To suspend the licence
- 6.2 Modification of existing conditions/s can include alteration, omission or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.
- 6.3 Additional conditions or restrictions to licensable activities and/or times should only be imposed if considered appropriate for the promotion of the licensing objectives. If other law already places certain statutory responsibilities on a premise, it would not be appropriate to impose similar duties.
- 6.4 In conducting the review of the interim steps the sub-committee has the power to take any of the steps that were available to it at the initial stage and they apply until the end of the period given for appealing against the full review decision, if there is an appeal until the appeal is disposed of or the end of a period determined by the authority, which may not be longer than the above periods.

7 STRATEGIC RESOURCE IMPLICATIONS

- 7.1 There are no direct strategic resource implications associated with this application.

8 LEGAL AND GOVERNANCE CONSIDERATIONS

- 8.1 A Licencing authority must carry out its functions under this Act with a view to promoting the four licensing objectives, taking into account the Guidance issued under Section 182 of the Licensing Act 2003 and the Councils own statement of Licensing Policy.



- 8.2 Members of the Sub-Committee must give full reasons for their decision.
- 8.3 The applicant, licence holder or any other person who made relevant representations in relation to the application, may appeal against the decision made to the Magistrates' Court within 21 days of the date on which they were notified.
- 8.4 The Licence holder can also appeal against continuing interim steps to the Magistrates Court within 21 days.
- 8.5 Members of the Sub-Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the applicant and/or the licence holder and shall only determine the application having had an opportunity to consider all relevant facts.

9 EQUALITY IMPACT ASSESSMENT

- 9.1 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society.
- 9.2 The operators of these premises are responsible for complying with all relevant legislation.

10 DATA PROTECTION IMPACT ASSESSMENT

Whilst full details of the application and any representations have been shared with the committee members, only information that is in the public domain has been made available for the reports that have been made public on line, in line with data protection protocols.

11 CRIME AND DISORDER AND RISK ASSESSMENT

The Police are a statutory consultee for all Licensing Act 2003 applications. Prevention of Crime and Disorder is one of the four licensing objectives and licence holders should take steps to promote the licensing objectives.

12 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND



The application relates to privately owned property.

13 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

The Licensing Sub Committee is asked to make a decision on the application based on any evidence presented at the hearing taking into account the Guidance issued under Section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy and to give reasons for their decision immediately.

14 Appendices

Appendix 1 – Premises Licence

Appendix 2 – Closure Order and evidence received to court on the day.

Appendix 3 – Location Plan

Appendix 4 – Representations

15 Background Papers

Sandwell Metropolitan Borough Council Licensing Policy

Guidance issued under Section 182 of the Licensing Act 2003

The Licensing Act 2003 (Hearings) Regulations 2005

The Licensing Act 2003 (Summary Review of Premises Licences)

Regulations 2007



By virtue of
Regulation 21(1)(A) of the Local Authorities (Executive
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Regulations 2000.

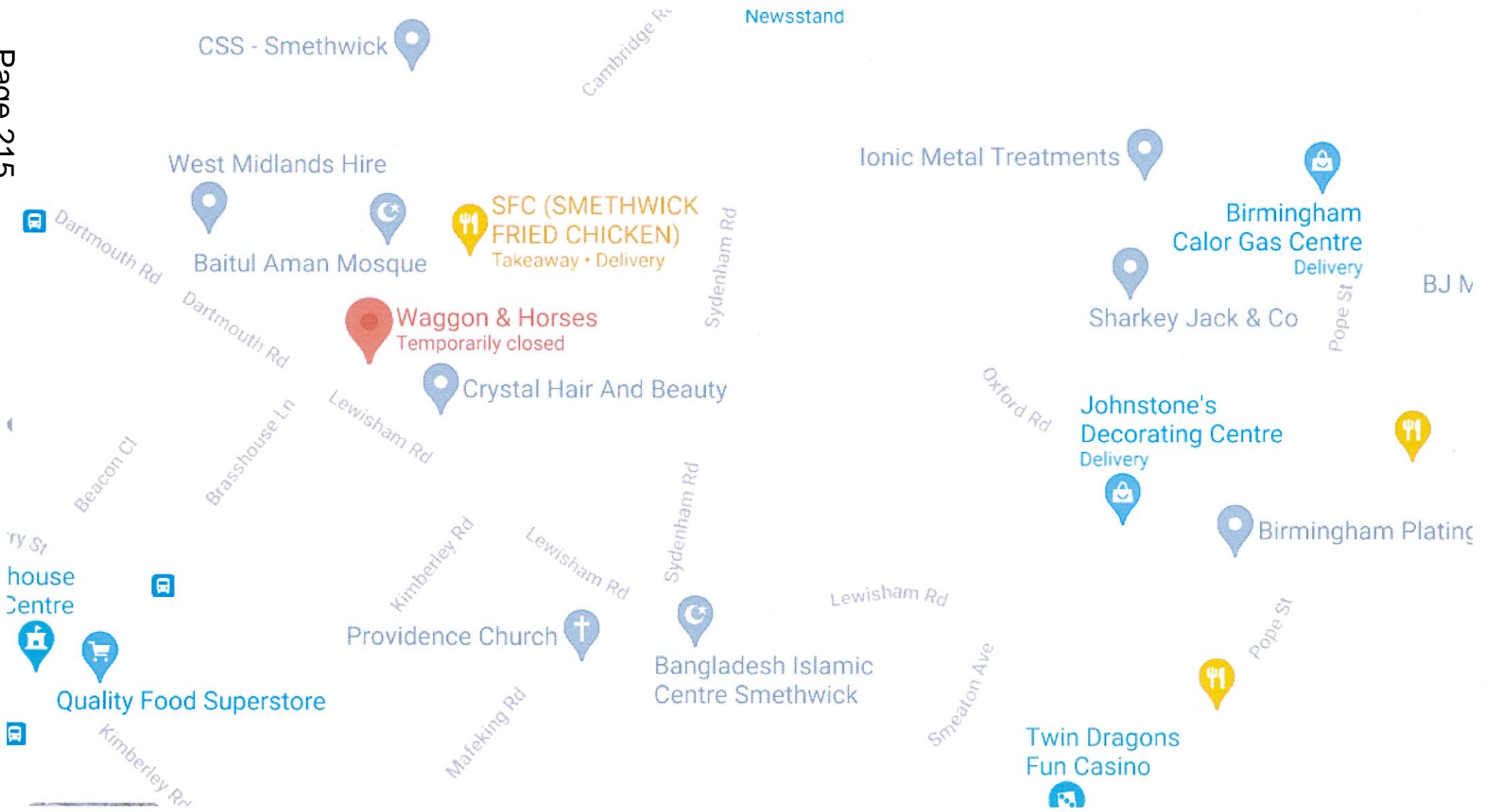
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