

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

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| Report to: | Licensing Sub Committee A |
| Report of: | Director of Regulation & Enforcement |
| Date of Meeting: | Monday 4th September 2023 |
| Subject: | Licensing Act 2003 Premises Licence – Review |
| Premises: | Joel's Convenience, 12 Bodington Road, Mere Green, Sutton Coldfield, B75 5ET |
| Ward affected: | Sutton Mere Green |
| Contact Officer: | David Kennedy, Principal Licensing Officer, licensing@birmingham.gov.uk |

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

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| 2. Recommendation: |
| To consider the review application and representation received and to determine this matter, having regard to: <ul style="list-style-type: none">• The submissions made by all parties• The Statement of Licensing Policy• The Public Sector Equality Duty• The s182 Guidance |

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| 3. Brief Summary of Report: |
| Review application received on 14 th July 2023 from the Chief Inspector of Weights & Measures in respect of Joel's Convenience, 12 Bodington Road, Mere Green, Sutton Coldfield, B75 5ET. A representation has been received from other persons. |

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| 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. |

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| <p>5. Relevant background/chronology of key events:</p> <p>The Chief Inspector of Weights & Measures applied on 14th July 2023 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for Joel's Convenience, 12 Bodington Road, Mere Green, Sutton Coldfield, B75 5ET.</p> <p>A representation has been received from other persons, which is attached at Appendix 1.</p> <p>The Review application is attached. See Appendix 2.</p> <p>The Premises Licence is attached at Appendix 3.</p> <p>Site location plans are attached at Appendix 4.</p> <p>When carrying out its licensing functions, a licensing authority must have regard to Birmingham City Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under s182 of the Licensing Act 2003.</p> <p>The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -</p> <ul style="list-style-type: none"> a. The prevention of crime and disorder; b. Public safety; c. The prevention of public nuisance; and d. The protection of children from harm. |
| <p>6. List of background documents:</p> <p>Copy of the representation as detailed in Appendix 1</p> <p>Review Application Form, Appendix 2</p> <p>Copy of Premises Licence, Appendix 3</p> <p>Site location plans, Appendix 4</p> |
| <p>7. Options available</p> <p>Modify the conditions of Licence</p> <p>Exclude a Licensable activity from the scope of the Licence</p> <p>Remove the Designated Premises Supervisor</p> <p>Suspend the Licence for a period not exceeding 3 months</p> <p>Revoke the Licence</p> <p>No Action</p> <p>Where the authority takes a step to modify conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.</p> |

From:
Sent: 07 August 2023 17:46
To: Licensing
Subject:

To whom it may concern,

In regards to the license review of Joel's convenience, i would like to make the following statement.

All of the members of staff are amazing and very helpful. The family have become a pillar in the local community.

During the covid pandemic when everyone was scared and unsure of things to come, the brothers stayed open and served the local community safely.

Even now they still offer support and help to the elderly & vulnerable people, from carrying their shopping home to delivering it to them when they are not up to actually get out and about.

They are not ones to back down in fear when teens/groups may become loud and disruptive in the area, they be firm and polite in getting them to quiet down and move on.

I truly believe the area would go down hill without this shop, the previous few owners have failed the community. The shop is so convenient to so many people now.

Kind regards,

**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 Paul Ellson (on behalf of Martin Williams, Chief Inspector of Weights & Measures)

Apply for the review of a premises licence under section 51 of The Licensing Act 2003 for the premises described in part 1 below.

Part 1 – Premises or club premises details

| | |
|---------------------------------------------------------------------------------------------|-------------------------------------|
| Postal address of premises or, if none, ordnance survey map reference or description | |
| Joels Convenience 12 Bodington Road Four Oaks Sutton Coldfield Birmingham | |
| Post town BIRMINGHAM | Post code (if known) B75 5ET |

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|---------------------------------------------------------------------------------------------|
| Name of premises licence holder or club holding club premises certificate (if known) |
| Mr JASPREET JOALL |

| |
|---------------------------------------------------------------------------|
| Number of premises licence or club premises certificate (if known) |
| 3477 |

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

Please tick ✓ yes

I am 18 years old or over

☐

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; Paul Ellson Birmingham Trading Standards Our Ref: 10586052/10619675 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 ✓

Yes

No

No

Yes

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

On 19 January 2023 Birmingham Trading Standards received information via West Midlands Police that the premises of Joel's Convenience, 12 Bodington Road, Four Oaks, Sutton Coldfield, B75 5ET was selling counterfeit tobacco/snuff to children from Arthur Terry School. On 27 January 2023 the Service also received an allegation from a member of the public that Joel's Convenience was selling e-cigs/ vaping products to children.

On 13 February 2023 Trading Standards Enforcement Officer Paul Ellson visited the premises of Joel's Convenience, 12 Bodington Road, Four Oaks, Sutton Coldfield B75 5ET. Officer Ellson spoke to Mr G Johal the brother of the licence holder. A female member of staff was also present. Officer Ellson explained the nature of the allegations and, detailed legislation surrounding the sale of nicotine inhaling products, commonly known as e-cigs or vapes as well as tobacco products to persons under 18 years old. A Trader Advisory Notice /Officer Warning was issued by Officer Ellson. A full set of information sheets which cover all aspects of tobacco and e-cigs /vapes legislation was issued to the premises with the instruction that all staff should read and abide by them. The Notice also had the statement on "Check vapes compliant." The Refusal Log was checked and found in good order and a new one was issued.

On 16 February 2023 Joel's Convenience was included in an operation to detect and seize illicit and non-compliant tobacco products using search dogs with the assistance of West Midlands Police. At approximately 12.15 pm a team of Trading Standards enforcement staff and Police entered Joels and carried out an inspection of the premises with the assistance of a tobacco search dog. Mr G Johal was again in the premises along with a female member of staff. No illicit tobacco or snuff was found, however, 464 non-compliant and therefore illegal e-cigs/vapes were found in the counter area both underneath and on the racking behind it. A further 525 illegal e-cigs/ vapes were found in the stock room adjacent to the counter.

Underneath the counter there was an open cigar tin containing single cigarettes marked at 75p. There were also two opened bottle of vodka and an open bottle of rum. On the floor behind the counter and running parallel to it was a baseball bat and machete, these items were handed to the police officers. In the stockroom open bottles of whisky, gin and malibu, (a rum based spirit) were found next to the microwave by the door into the retail area. All the illegal e-cigs vape products were seized and Mr Johal was told to remove out of the premises all the opened bottles of alcohol and the single cigarette tin.

PLEASE PROVIDE AS MUCH INFORMATION AS POSSIBLE TO SUPPORT THE APPLICATION

The Licence for Joel's Convenience, 12 Bodington Road, Four Oaks, B75 5ET is held by Mr Jaspreet Joall and has been since 2012. It is a small but very busy family owned and operated convenience store serving a large residential area.

Previous history of this shop.

In April 2022 The Trading Standards Service received an allegation that illegal e-cigs /vaping products were being supplied from the premises. The shop was visited and advice given by an officer. As previously stated Trading Standards received a further two allegations concerning underage sale of vaping and tobacco products. A further visit was undertaken to ensure compliance. This visit was designed to engage, explain and encourage the premises to comply if the allegations were true or remind the premises of the obligations if they were not.

Recommendations.

An alcohol licence confers on a business a responsibility towards its customers and the community around it. This responsibility should mean that the citizens of Birmingham have confidence in the management of the shop and, especially that they do not trade carelessly or illegally. There is an obligation to ensure good practice, safety of the public and the greater welfare and protection of the local community.

Before recommendations are made there are several circumstances that should be considered. Firstly the premises serves a residential area where a number of local people use it often, and, over years it has provided an essential service particularly during the pandemic. If the Licence was removed the premises may close altogether as it is already operating in a harsh retail environment. On the pre-enforcement visit and the enforcement visit itself the Licence holder was not in attendance. It could be said that the day to day control of the premises may have lapsed. However there was a number of illegal e-cigs /vapes were found despite an explicit instruction to check them. Evidence of single cigarettes being sold was found along with a number of opened alcoholic bottles that were found in the retail area and the stockroom. No adequate explanation could be given for this other than certain local residents asked the shop to keep the open bottles for them so they could collect them later. Under no circumstance should this be happening. There was also no lawful reason to have a baseball bat and a machete secreted behind the counter.

I would therefore suggest that the following conditions be added to the Licence;

GENERAL

1. Alcoholic drinks in open containers or bottles of any kind may not be stored / sold / supplied/ kept or removed from the premises.

INCIDENT BOOK

2. An incident book must be kept at the Premises and maintained up to date (no later than 24 hours after the incident) at all times and will record the following:

- i. Time date and details of all incidents/complaints of crime and disorder or anti-social behaviour
- ii. All crimes reported to the venue
- iii. Any faults in the CCTV system, equipment searching equipment or scanning
- iv. Any visit by a responsible authority or emergency service

The incident book must be kept at the premises and made available to West Midlands Police or an Officer of a Responsible Authority on request, or during an inspection.

TRAINING

3. Training in relation to the Licensing Objectives and the conditions on the premises licence, Challenge 25, under age sales, sales to adults on behalf of minor (proxy sales), sales to intoxicated persons, refusals registers and incident records must be provided and undertaken by all members of staff (whether paid or unpaid) before he/ she makes a sale or supply of alcohol/tobacco products /electronic cigarettes and at least every six months thereafter.

4. Documented training records must be completed in respect of every member of staff and must include the name of the member of staff trained date, time and content of the training.

The record must be signed by the member of staff who has received the training, the Designated Premises Supervisor, the Premises Licence Holder or external training providers.

5. Documented training records must be kept at the premises and made available to all Responsible authorities.

THE PROTECTION OF CHILDREN FROM HARM

6. The premises licence holder shall adopt the Challenge 25 scheme and appropriate signage and age restricted identity poster will be placed at the entrance to the premises and throughout the store. The premises will operate a policy whereby any person attempting to buy alcohol/tobacco products /electronic cigarettes or any person attempting to gain entry for premises who appears to be under 25 will be asked for photographic ID to prove their age. The ID that will be accepted is a passport or driving licence with a photograph.

7. The premises licence holder shall display Challenge 25 posters in prominent positions within the premises, including at the point of sale and the entrance to the premises.

There has been quite clearly a breach of trust to some extent in the overall thrust of the four Licensing objectives.

The Licence that the Council issues is a privilege not a right. That privilege should ensure that the citizens of Birmingham have confidence in the management of the shop and that they do not engage in illegal activity. With that privilege there are a series of duties to ensure good practice, safety of the public and the greater welfare and protection of the local community, none of those obligations are too onerous. These conditions would be beneficial to the trader and the community at large ensure that the premises continues to serve the local community.

The sub-committee may wish to impose a period of suspension of the licence for all these matters to be taken into hand and may wish to consider if there is adequate supervision of the premises on a daily basis.

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

If yes please state the date of that application

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

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

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 **YES**
- I understand that if I do not comply with the above requirements my application will be rejected **YES**

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

14 / 7 / 23

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.

LICENSING ACT 2003**PREMISES LICENCE**

Premises Licence Number:

3477 / 2

Part 1 - Premises details:

| | |
|---------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| Postal address of premises, or if none, ordnance survey map reference or description Joels Convenience 12 Bodington Road | |
| Post town: Birmingham | Post Code: B75 5ET |
| Telephone Number: | |

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|-----------------------------------------------------------|
| Where the licence is time limited the dates N/A |
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|----------------------------------------------------------------------------------------------------------------|
| Licensable activities authorised by the licence M2 Sale of alcohol by retail (off the premises) |
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| The times the licence authorises the carrying out of licensable activities Monday-Sunday 07:00 - 22:00 M2 |
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|----------------------------------------------------------------------------------------|
| The opening hours of the premises Monday-Sunday 07:00 - 22:00 |
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| Where the licence authorises supplies of alcohol whether these are on and/or off supplies Off Supplies |
|------------------------------------------------------------------------------------------------------------------|

Part 2

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Mr Jaspreet Singh Joall | |
| Post town: | Post Code: |
| Telephone Number: | |
| 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 Mr Jaspreet Singh Joall | |
| Post town: | Post Code: |
| 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 6850 | Issuing Authority BIRMINGHAM CITY COUNCIL |

Dated 09/05/2012

David Kennedy
Senior Licensing Officer
For Director of Regulation and Enforcement

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 shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol:-

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 a holographic mark.

Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

The licence holder shall ensure all staff are trained with regard to the Licensing Act 2003.

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

The licence holder shall install and maintain a CCTV system at the premises.

A refusal book shall be kept and maintained at the premises.

The licence holder shall liaise with the local Licensing Police Officer on a regular basis.

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

The licence holder shall ensure all emergency lighting will be checked weekly.

The licence holder shall ensure all entrances, exits and passageways are kept clear at all times.

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

Prominent signs will be displayed requesting customers to have regard for local residents when leaving the premises.

Adequate bins shall be made available for customers to dispose of litter.

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

The premises will operate a challenge 21 policy.

A record will be kept of all attempted purchases by under 18's.

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

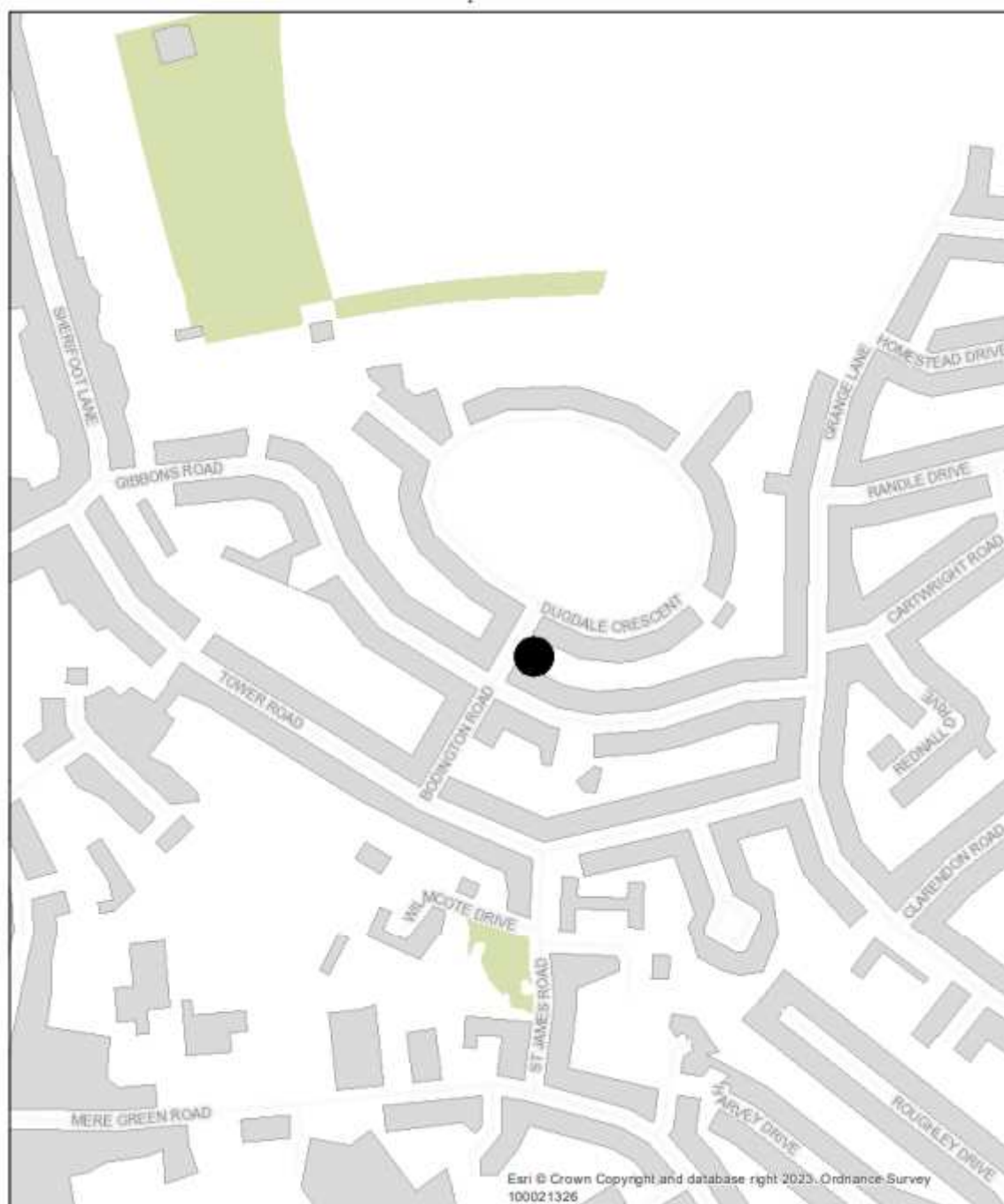
N/A

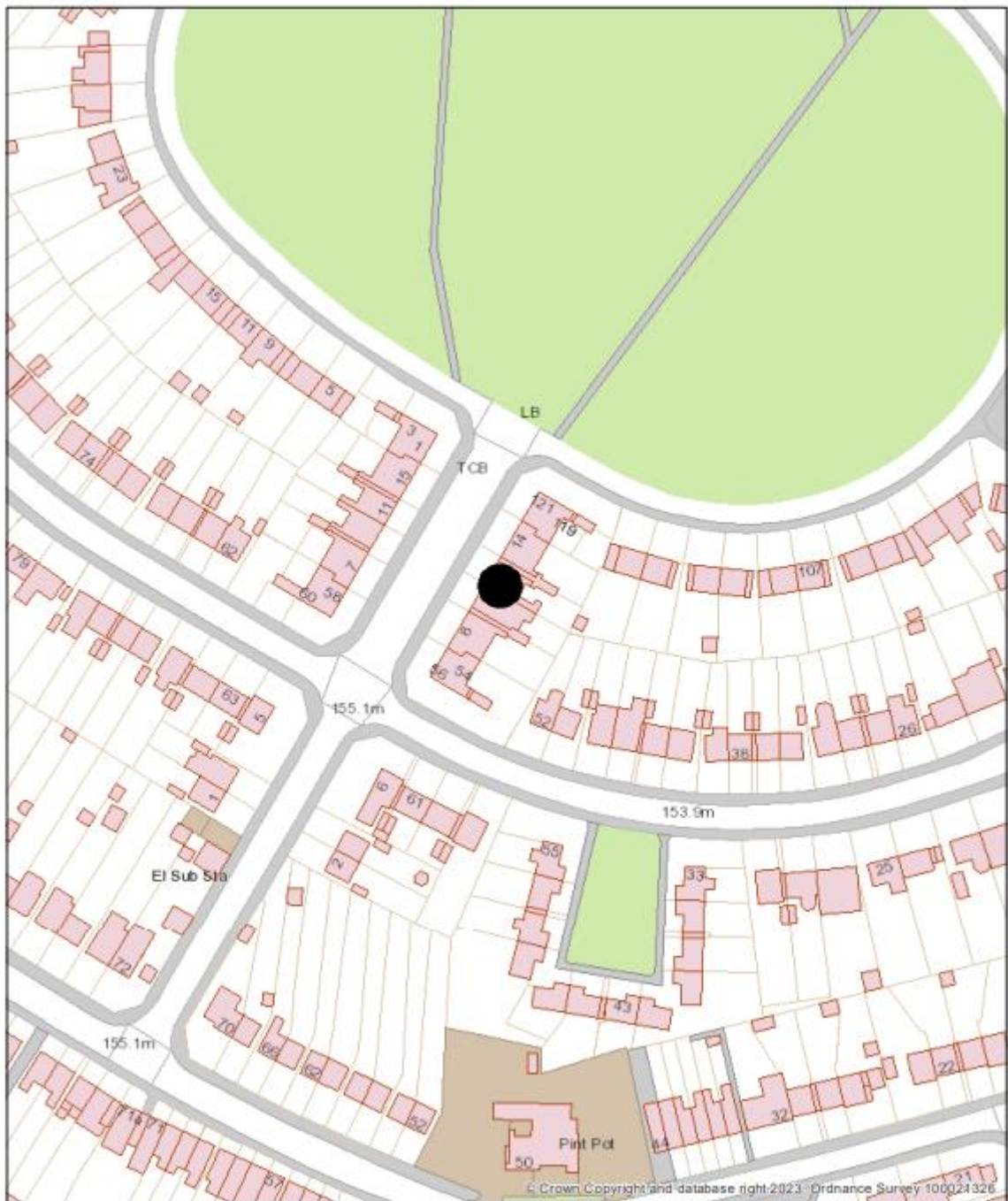
3e) Committee conditions to promote the protection of children from harm

N/A

Annex 4 – Plans

The plan of the premises with reference number **77775-3477/2** which is retained with the public register kept by Birmingham City Council and available free of charge for inspection between the hours of 9am – 4pm Monday, Tuesday and Thursday, 10am – 4pm Wednesday and 9am – 3.30pm Friday (excluding Bank Holidays etc) at the Licensing Service, Crystal Court, Aston Cross Business Village, 50 Rocky Lane, Aston, Birmingham B6 5RQ.





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