

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE

WEDNESDAY, 15 JANUARY 2020 AT 10:30 HOURS
IN COMMITTEE ROOMS 3 & 4, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

A G E N D A

1 **NOTICE OF RECORDING/WEBCAST**

The Chairman to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 **DECLARATIONS OF INTERESTS**

Members are reminded that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

3 **APOLOGIES**

To receive any apologies.

4 **MINUTES**

To confirm and sign the Minutes of the meeting held on 18 December 2019.

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5 **FOOD SAFETY RECOVERY PLAN 2020**

Report of the Interim Assistant Director of Regulation & Enforcement

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6 **THE MANAGEMENT AND ENFORCEMENT OF ALLERGEN CONTROLS DURING INSPECTIONS AND THE ACTIONS TAKEN TO DATE**

Report of the Interim Assistant Director of Regulation & Enforcement.

- 43 - 106** 7 **DRAFT STREET TRADING POLICY CONSULTATION REPORT**
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- 107 - 118** 8 **CONSULTATION ON STRENGTHENING POLICE POWERS TO TACKLE UNAUTHORISED ENCAMPMENTS**
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- 119 - 136** 9 **EMERGENCY RESPONSE TO SODIUM - OXHILL ROAD**
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- 137 - 142** 10 **SENTENCING GUIDELINES FOR FOOD SAFETY, FOOD, HYGIENE AND HEALTH & SAFETY OFFENCES**
Report of the Interim Assistant Director of Regulation & Enforcement
- 143 - 160** 11 **PROSECUTIONS AND CAUTIONS - NOVEMBER 2019**
Report of the Interim Assistant Director of Regulation & Enforcement.
- 161 - 164** 12 **OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS - NOVEMBER 2019**
Report of the Interim Assistant Director of Regulation & Enforcement
- 165 - 166** 13 **SCHEDULE OF OUTSTANDING MINUTES**
To consider the schedule of outstanding minutes.
- 14 **OTHER URGENT BUSINESS**
To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.
- 15 **AUTHORITY TO CHAIRMAN AND OFFICERS**
Chairman to move:-

'In an urgent situation between meetings, the Chairman jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.

BIRMINGHAM CITY COUNCIL

**REPORT OF THE INTERIM ASSISTANT DIRECTOR OF
REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

15 JANUARY 2020
ALL WARDS

FOOD SAFETY RECOVERY PLAN 2020

1. Summary

- 1.1 The Local Government Act 2000 requires each Food Authority to identify its strategy and the resources required to fulfil its Food Safety function each year in the form of a Food Law Enforcement Plan.
- 1.2 The Food Law Enforcement Plan was submitted to the July 2019 Committee identifying that there was a shortfall in resources to deliver the inspection programme.
- 1.3 This report identifies the steps being taken to bring the inspection programme up to date through a Food Safety Recovery Plan agreed by the Chief Executive and Leader and to be delivered by Environmental Health.

2. Recommendation

- 2.1 That the report be noted, and the Food Safety Recovery Plan be endorsed.

Contact Officer: Mark Croxford
Head of Environmental Health
Telephone: 0121 303 6350
Email: mark.croxford@birmingham.gov.uk

3. Background

- 3.1 The Food Law Enforcement Plan (FLEP) sets out the City's commitment to Food Safety Enforcement for the year ahead. It specifies the number of food hygiene and food standards interventions which will be predicted to be required. It also identifies those areas of work which are considered essential to protecting food safety in Birmingham.
- 3.2 The activities identified in the FLEP are a statutory requirement under EC Regulation 882/2004 Article 3, and the requirements of the food authority are defined in Article 4. This includes carrying out effective and appropriate official controls and having sufficient numbers of suitably qualified and experienced staff.
- 3.3 The FLEP identified that there is an increasing demand for interventions and these are primarily from:
- i. An increased number of new registrations per annum. In the last 10 years this has increased from approximately 300 per annum to over 1400 per annum.
 - ii. The increased work around food standards, this includes compositional standards, food information and allergen work. The allergen work is detailed in a separate committee report to this committee.
 - iii. The back log of inspections that has built up over the last few years.
 - iv. There is an estimated shortfall of 12 officers to deliver the statutory programme.
- 3.4 The Food Standards Agency (FSA) is responsible for overseeing that the official controls to ensure food safety are delivered. They have identified that this is not occurring in Birmingham due to the underperformance in inspections and the shortfall in qualified officers. The Chief Executive of the FSA has written to Birmingham's Chief Executive requesting assurances this will be rectified. This is the 3rd step in a 4-stage escalation process that the FSA uses.
- 3.5 Birmingham's Chief Executive has worked with the Interim Assistant Director of Regulation and Enforcement to address these concerns and to produce a recovery plan.

4. Food Safety Recovery Plan

- 4.1 Appendix 1 contains the text of the verbal briefing read out to committee by the Head of Environmental Health at the December Committee.
- 4.2 Appendix 2 has a copy of the Food Safety Recovery Plan. The figures within this plan are changing daily as inspections are completed. An updated table of inspections is within Appendix 3 which was compiled for the Council's publication of this report on CMIS.
- 4.3 The recovery plan has been shared with the Food Standards Agency and identifies that monies are being made available to increase resourcing to meet demand.

- 4.4 Appendix 4 and 5 contain the latest letter from the FSA and response.
- 4.5 In addition to the actions and steps taken in appendix 1, the Head of Environmental Health has reprioritised the Inspection programme above all other work. At this stage this means that around 24 full time equivalent Environmental Health Officers are fully engaged in food inspections. This leaves 8.5 Environmental Health Officers and Enforcement Officers to undertake responses to all other complaints across the city. This will slow down the response times to these complaints but will enable the prioritising of those complaints that pose the greatest risk to health.
- 4.6 As the recruitment is undertaken and further officers come into position, we will consolidate the recovery of the inspection programme and then work to regain the ground lost on requests for assistance. By and large the trend has always been that requests for assistance always drop around the new year and build to a peak in the late summer. This approach in January and February may be sustainable but requests for assistance will fall behind unless recruitment is successful.

5. Consultation

- 5.1 This matter covers the delivery of statutory duties and as such is not for public consultation. Committee is being asked to endorse the prioritisation of Food Enforcement work over and above requests for assistance whilst recruitment is underway.

6. Implications for Resources

- 6.1 Approval has been given to recruit £300k of officers and a further application has been made for additional £275k (plus £25k of training budget). This should enable the recruitment of 12 to 14 officers depending on grade.

7. Implications for Policy Priorities

- 7.1 Safe food is not only crucial to the health and safety of citizens and visitors to the City but the work which is referred to in the Food Law Enforcement Plan is also consistent with other policy priorities including economic success, staying safe and being healthy. The reduction in food safety activity will have a direct impact on these priorities.

8. Public Sector Equality Duty

- 8.1 Equality issues are accounted for during food safety activities carried out by officers.

INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers:

Birmingham City Council – Food Safety Service

This is a short verbal briefing to advise committee that the Chief Executive of the Food Standards Agency has made representations to the Chief Executive of Birmingham Council over the compliance with the statutory food inspection programme.

This matter was first raised in the autumn of 2018, followed by a remedial action plan being submitted to the FSA in February 2019 by ourselves. A visit has now been made to the City Council by FSA compliance officers in October 2019.

The purpose of this brief is to advise committee of the steps that have occurred since February 2019.

- April 2019 – 5 EHOs transferred from Waste Enforcement Team to Environmental Health Team to undertake inspections
- April 2019- Draft Food Safety Plan produced and submitted to Foods Standard Agency. We have also employed Agency staff to undertake inspections of new premises that are registering as food businesses, and those that are registered and have not been inspected to date. This Agency work is still occurring and equates to approximately 4 full time equivalents for 2019-20
- July 2019- New Interim Assistant Director appointed and commenced at the City Council
- July 2019- Food Law Enforcement Plan adopted with the issue of shortfall in officers being notified to Members.
- July 2019- Budget process for 2020/2021 commenced. A budget bid for additional resources to supplement the Food Safety Service was put forward. (this is coupled with a proposal to modernise the service.)
- October 2019- the bid and modernisation proposal was approved in principal by the Cabinet/ Corporate Leadership Team
- October 2019- the FSA visit was escalated to Acting Chief Executive and Leader.
- November 2019- Acting Chief Executive requested the Interim Assistant Director to produce a recovery plan.
- November 2019 – The Head of Environmental Health was authorised to start the recruitment of 6 Officers. Those adverts are published as I speak, interview dates have been set for end of January 2020.
- December 2019 - Interim Assistant Director's contract has been extended with a focus on achieving the necessary improvements to the Food Safety Plan.
- December 2019 - A further draft recovery plan considered by the Leader, Deputy Leader, Acting Chief Executive and Assistant Chief Executive. This has been agreed to be placed as a draft recovery plan before Cabinet as soon as some questions have been clarified (date confirmed as 13th January 2020).

The draft recovery plan designed to address all shortfalls within a period of 2 years was sent to the FSA's compliance officers on the 13th December for comment and I am currently addressing clarifications following this. Action was taken prior to receipt of the latest letter from the FSA to appoint additional staff and a private sector provider was appointed to

provide an additional resource to tackle the outstanding new registrations. It is a significant factor that businesses appear to change hands or close when they receive a poor food hygiene rating and re-open overnight as a new business often with the same management. This means there is a consequent increase in new registrations is having a major and damaging impact on the rest of the food safety programme. We are currently expecting 1,400 of these new registrations per annum when a few years ago it was less than 300. Previously a business that was inspected and found to be non-complaint would receive a further unannounced inspection 6 months after that first inspection.

By changing the business name or putting new owners' names on the documentation these premises need to be re-inspected within 28 days and must be rescored. The overall inspection programme without new registrations used to be around 2,500 and in a very busy year, 3000. This shows that the demand of the further 1,400 inspections per annum, all to be carried out within the 28 days, not within the 6 months to a year for the As and Bs, is what is causing the pressure.

During the inspection in October, the FSA Team did acknowledge that the work quality of the work undertaken by the officers in tackling the problem premises, and the risks to health whether from food poisoning or allergen work, is very good. They do not want this qualitative work aspect to decrease but they do require that the number of inspections increase. The Chief Executive and the Leader have confirmed that the City Council is committed to meeting the statutory responsibilities and will use its best endeavours to do so. The Chief Executive is likely to accept an invite to meet the Chief Executive of the FSA.

Birmingham City Council
Regulation and Enforcement Division
Food Safety Plan: Recovery Plan

Introduction

As at 20 November 2019 the Council is failing to meet its programmed food inspection programme due to a backlog of inspections as set out in the table below (lines 1. 2. and 5.):-

Status	Category of Premises						Grand Total
	A	B	C	D	E	Unrated	
1. Overdue Pre 2019	8	13	90	382	28		521
2. Overdue 2019	39	70	214	98	97		518
3. Due 2019/20	46	257	287	644	2565		3799
4. Due Post 04.2020+	13	273	1104	1153	712		3255
5. Unrated						1255	1255
Total	106	613	1695	2277	3402	1255	9348

Projected year end out-turn

The Food Law Enforcement Plan for 2019/2020 identified that by the 31 March 2019, all the category A, B and C inspections would be carried out and that 10% of the D's and 1,000 unrated premises would be inspected.

This will therefore leave a back-log of 1979 inspections. This is based on 600 further inspections by agency inspectors and balanced against a forecast 400 new registrations being made between now and year end.

Count of LPI	Cat.					Unregistered Backlog	In year New registrations	Grand Total	
Status	A	B	C	D	E				
Overdue Pre 2019	8	13	90	382	28			521	
Overdue 2019	39	70	214	98	97			518	
Due 2019/20	46	257	287	644	2565			3799	
Due Post 04.2020+									
Unrated						1255		1255	
Grand Total	93	340	591	1124	2690	1255	400	6093	Agency
	0	0	0	1124	0	1255	400	2179	639
									600

Based on current resources (secondments, maternity, and vacancies) it would be prudent to advise that of the 591 Cat C inspections is likely to be missed by 150.

Predicted Programme for 2020/21

The predicted food programme is tabulated below based on average numbers of inspections by category over the last three years and those expected to be overdue from 2019/20 programme.

Count of LPI	Cat.							
Status	A	B	C	D	E	Unregistered Backlog	In year New Registrations	Grand Total
Inspections due 2020/21	130	272	1009	661	27		1400	3499
Overdue from 2019/20			150	1124		1055		2329
Total								5828

Note: The highlighted 1,124 overdue category “D” inspections have occurred due to a previous misapprehension that when the FSA stated LA’s could risk rate and prioritise inspections, that this would inevitably mean that some inspections of low risk food businesses would not be undertaken. It is clear now the methodology requires higher risk premises to be inspected on their due date rather than allow deferment.

It is proposed to recover the programme over a three year period. This is based on receiving additional resources as identified in the budget bid for 2020/2021 with a lead in time for new officers to achieve optimum performance.

Plan to tackle the backlog of outstanding premises.

The following actions have been identified with forecast impact on the backlog.

Action	Timescale	Anticipated Impact	Review
Recruit to 6 vacant posts to return EH to its substantive numbers- action undertaken to meet Division budget pressures. (This could be either all EHO’s or Enf’ Officers to free up inspectors or a combination of both).	Commence November 2019, it is unlikely that any officers will be in post before March 2020	Minimal in 2019/20 programme, but significant for subsequent years.	February 2020 and every month thereafter until achieved
Commission private sector	Additional inspections requested. 600 transferred to Osbourne Richardson.	600 inspections identified- with 400 premises forecast to register in Dec 2019 to Mar 2020- achieves a reduction of 200 in backlog 2019/2020. Commission limited to food hygiene inspections not food standards, so short	Monthly review starting December 2019.

Action	Timescale	Anticipated Impact	Review
		term solution.	
Recruit to new posts	As part of the modernising EH agenda extra funds are sought through the Council's budgetary process 2020/21.	Achieve existing programme plus reduce backlog in time. Recruitment delays used to commission private sector inspections.	Awaiting budget confirmation, but monthly after April 2020.
Commence modernisation programme	(Feb/ March 2020-ODP) 12 to 24 Months	Improved mobile ICT ODP training Review team structures and duties and reviewing priorities for other service demands-possible withdrawal from activities.	Quarterly
Increased performance management	April 2020	Re-instate monthly sharing of team and officer performance with officers Enhanced review officer performance in 1:1s	Monthly
Review of Events and support/inspections undertaken	End January 2020	To review all non-statutory or avoidable inspections in favour of those on the food programme.	End January 2020 and quarterly thereafter
Review administration support and data entry	End February 2020	To target business support to updating and processing the food database, increasing efficiency by reducing EHO time on this function	February 2020

Action	Timescale	Anticipated Impact	Review
Explore Apprenticeship Levy	March 2020	Determine whether an apprenticeship will enhance Environmental Health delivery	June 2020

Impact of Additional Resources

It is forecast using the existing budget to recruit six officers to existing vacancies, is sustainable with the current budget, but means less resource is available to meet other pressures across the Division and Directorate. The budget bid will be required to tackle the backlog and if this is successful then it is forecast to reduce the backlog by a third in the first year and 2/3rds in the second. Realistically this should enable the food programme and all other services to be delivered from 2022/23.

Work likely to review to reprioritise or cease

Potential work to be reviewed is mentioned in the table above. Initial thoughts have identified the following for consideration:-

- None of the outdoor events will be inspected for food safety or health and safety
- An increase in response times for complaint work.
- A review of project work such as leading on national changes to the licensing of Shisha premises
- Reduction in investigation and interventions around communicable diseases
- Reduction in sampling programme of public pools to prevent disease spread from recreational swimming
- Reduction in joint working with WM Police and Internal Departments on ASB and modern slavery. These matters will just be referred to most appropriate section.
- Reduction in threshold for enforcement action so that only the most serious matters are investigated and prosecuted.

It is emphasised these need to be discussed with members before confirmation.

Paul Lankester

Interim Assistant Director

29 November 2019

APPENDIX 3

Updated inspection figures

APPENDIX 4

FSA - Letter

APPENDIX 5

CX response FSA Letter



Birmingham City Council

Clive Heaphy
Chief Executive (Acting)
Council House
Victoria Square
Birmingham B1 1BB

E-mail : clive.heaphy@birmingham.gov.uk

Our ref: CH/UW.241219.Food Safety

Your ref: 19/11/19/HCS

24 December 2019

Foods Standards Agency
Floors 6 & 7 Clive House
70 Petty France
London
SW1H 9EX

Dear Ms Miles,

Birmingham City Council – Food Safety Service

Thank you for your letter dated 13 December 2019 concerning the City Council's Food Safety Service. Your concerns are noted and accepted.

The new processes adopted by the Food Standards Agency for dealing with concerns over local authority performance are noted. These came into effect after the previous correspondence, but I can assure you, as the Council's new Chief Executive, I am treating these with the utmost importance.

Reflecting on the context at the time of your previous correspondence, the Council was subject to Government intervention for several reasons including the management and control of its budgets. Consequently, our focus has been to ensure that we could move forward whilst at the same time, tackling service issues that were evident. While finances remain fragile, the Council now has a balanced budget and statutory functions are at the heart of the Council's activities with a focus on resourcing services for ongoing demand and tackling backlogs.

In addition, I have set up a regular meeting of the Council's Statutory Officers to keep under review activities in the functions and to identify before it becomes an issue any shortfall in activity or performance.

I will now set out what action has been taken since February 2019 and since your team visited the City Council in late October 2019. A chronology is set out below of the actions taken: -

Cont.

- April 2019- Draft Food Safety Plan produced
- July 2019- New Interim Assistant Director appointed and commenced at the City Council
- July 2019- Food Safety Plan adopted with the issue of shortfall raised with Members.
- July 2019- Budget process for 2020/2021 commenced. A budget bid for additional resources to supplement the Food Safety Service was put forward. (this is coupled with a proposal to modernise the service.)
- October 2019- the bid and modernisation proposal was approved in principal by the Cabinet/ Corporate Leadership Team
- October 2019- FSA visit escalated to Acting Chief Executive and Leader.
- November 2019- Acting Chief Executive requested Assistant Director to produce a recovery plan.
- December- Interim Assistant Director's contract extended with a focus on achieving the necessary improvements to the Food Safety Plan.
- December 2019- Draft recovery plan considered by Leader, Deputy Leader, Acting Chief Executive and Assistant Chief Executive. Agreed to place before Cabinet as soon as certain issues are clarified.

The issues raised in your letter and a proposed recovery plan are to be considered on 13 January 2020 by the Corporate Leadership Team Cabinet and the Cabinet. This proposed recovery plan is designed to address all shortfalls within a period of two years and was sent to Helen Castledine-Smith and Andrew Gangakhedkar on 13 December for comment before we make our formal response. Your letter has crossed with this intended programme of action, but I am attaching the draft Action Plan for your information and welcome any comments you may have.

You will note that action was taken prior to receipt of your letter to appoint additional staff and a private sector provider was appointed to provide an additional resource to tackle the outstanding new registrations. It is a significant factor that businesses are closing when they receive a poor food hygiene rating and re-opening overnight as a new business often with the same management. This means the consequent uplift in new registrations is having a major and deleterious impact on the rest of the food safety programme. Notwithstanding this, the City Council is committed to meeting its statutory responsibilities and will use its best endeavours so to do.

In your letter I note that you indicated that you had copied your letter to Councillor Hamilton. Policy issues relating to food safety are the responsibility of the Leader of the Council, Councillor Ian Ward, and the non-executive functions (which by law cannot be the responsibility of the Cabinet) fall to the Chair of the Licensing and Public Protection Committee, Councillor Phil Davis. I have ensured they have a copy of your correspondence and this response.

Lastly, I appreciate your offer to meet with me and relevant colleagues. I would welcome such a meeting and a discussion of this Council's proposals not only to maintain the quality of its existing service but to meet the quantitative requirements imposed by the Food Standards Agency. I will ask my Assistant to set up a meeting early in the New Year.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Clive Heaphy', written in a cursive style.

Clive Heaphy
Chief Executive (Acting)

Enc.



From Emily Miles
Chief Executive

Tel: 020 7276 8627
Email: emliy.miles@food.gov.uk

Clive Heaphy
Chief Executive (Acting)
Birmingham City Council

By email: [c/o dawn.baxendale@birmingham.gov.uk](mailto:c/o_dawn.baxendale@birmingham.gov.uk)

13 December 2019

Our ref: 19/11/19/HCS

Dear Mr Heaphy,

Birmingham City Council - Food Safety Service

As you may be aware there has been ongoing correspondence since July 2018 between the Food Standards Agency (FSA) and Birmingham City Council (BCC) about the Council's ability to deliver an effective food safety service. I am writing to bring to your attention our ongoing concerns, and to seek your assurance that appropriate and timely action will be taken to make the necessary improvements to the service.

Copies of the most recent prior correspondence are enclosed for ease of reference.

Given the seriousness of our concerns, previous engagement was at chief executive level and was between Dawn Baxendale, and Jason Feeney, my predecessor at the FSA. This level of engagement equates to Stage 3 of the escalation process that we introduced in March this year for managing local authority performance. A copy of the process is also enclosed.

As you will see, Dawn Baxendale's letter of 20 February 2019 outlines how BCC aimed to tackle a substantial backlog of food businesses awaiting an initial inspection (unrated premises). Having monitored the situation, we are concerned that progress in tackling has not progressed as anticipated.

In addition, a review of BCC's annual local authority enforcement monitoring (LAEMS) return for 2018/19 indicated that there were around 700 overdue hygiene interventions at food businesses (these have been previously rated) at the end of March 2019.

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Email: emily.miles@food.gov.uk

FOOD HYGIENE RATING

food.gov.uk/ratings



In order to better understand and assess the situation at BCC, Helen Castledine-Smith and Andy Gangakhedkar from our local authority performance management team met with Paul Lankester, Interim Assistant Director Regulation Enforcement, Mark Croxford Head of Service, and Gary James and Nick Lowe, Health and Safety Food Leads, on 28 October this year.

From the update provided and from a subsequent review of BCC's premises database, I remain extremely concerned about the effectiveness of the food safety service being provided by BCC and about the potential risks to public health.

It is evident that the number of unrated premises has now increased to over 1,200, and our analysis suggests that around 86% of these are likely to be high risk businesses in terms of their activities and/or level of compliance with food safety requirements. To add to this, an estimated 1,000 new registrations will be received in 2019/20 which will further add to the number.

Similarly, the backlog of overdue interventions of rated premises is continuing to grow and now stands at more than 1,000 of which around 70% are high risk premises.

In addition to these risks I am concerned that, although the level of enforcement action remains high at BCC, there has been a reduction on previous years. Similarly, there has been a reduction in the number of hygiene complaints received that are being investigated. I appreciate that these reductions may result from the pressure on the service to tackle the backlogs of unrated premises and overdue interventions, but these are also important aspects of the food safety service.

I understand that BCC's own Food Law Enforcement Plan states clearly that the current level of resource is insufficient to meet the standards that the FSA sets for local authorities in the Food Law Code of Practice. I understand also that, despite this, the plan was approved by members in July 2019.

In view of the points above, I must ask for your urgent assurances that sufficient resources will be made immediately available to deal with the backlogs and ensure that currently unrated premises are inspected and that overdue interventions are undertaken.

I must also ask for reassurance that steps will be taken to ensure that the team is sufficiently resourced on an ongoing basis enabling it to provide an effective service and an appropriate level of public health protection.

I appreciate the challenges that BCC faces in regulating so many food businesses, in dealing with high levels of business churn and I am also aware of the recent additional pressures on the service as a result of a food incident involving waste animal products

entering the food chain. I acknowledge the impact both factors have on delivery of BCC's planned inspection programme and would reassure you that we will continue to work with you and support you in addressing the issues of concern in relation to this.

I would be grateful to receive your response by 3 January 2020. If you consider it would be beneficial, I would be happy to ask my office to arrange a meeting between us, involving appropriate officials.

In the meantime, our performance management team will contact Mark Croxford in relation to agreeing a revised action plan to reflect the issues outlined above and to ensure that they are dealt with on a risk priority basis and within an appropriate timeframe.

In line with our new escalation process, I am copying this letter to Paulette Hamilton Cabinet member for Health and Social Care at BCC. I will also be informing our Board at its Business Committee meeting in January, the Local Government Association and colleagues at the Ministry of Housing, Communities and Local Government.

Yours sincerely,



Chief Executive, Food Standards Agency

cc: Maria Jennings – FSA, Director for Regulatory Compliance, People and NI
Michael Jackson - FSA, Head of Regulatory Compliance Division
Mark Croxford - Birmingham City Council, Head of Environmental Health,
Paul Lankester - Birmingham City Council, Interim Assistant Director Regulation Enforcement

BIRMINGHAM CITY COUNCIL**REPORT OF THE ACTING ASSISTANT DIRECTOR OF REGULATION AND
ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE****JANUARY 2020
ALL WARDS****THE MANAGEMENT AND ENFORCEMENT OF ALLERGEN CONTROLS DURING
INSPECTIONS AND THE ACTIONS TAKEN TO DATE****1. Summary**

- 1.1 As a result of increased concerns about allergen information provided to consumers, and the control of allergenic substances in food businesses, increased emphasis has been placed on this subject during food hygiene inspections.
- 1.2 Additional checks are carried out during inspections, including carrying out full audits of menus, and an assessment of the provision of food to consumers that present with an allergy. This then determines the level of intervention, with the aim of protecting consumers from a potentially serious food safety incident.
- 1.3 Officers have developed an innovative approach to dealing with allergen issues in food businesses, including the use of allergen stop requirements and the increased service of statutory notices. This means we are providing enhanced protections for allergen consumers in the city.

2. Recommendation

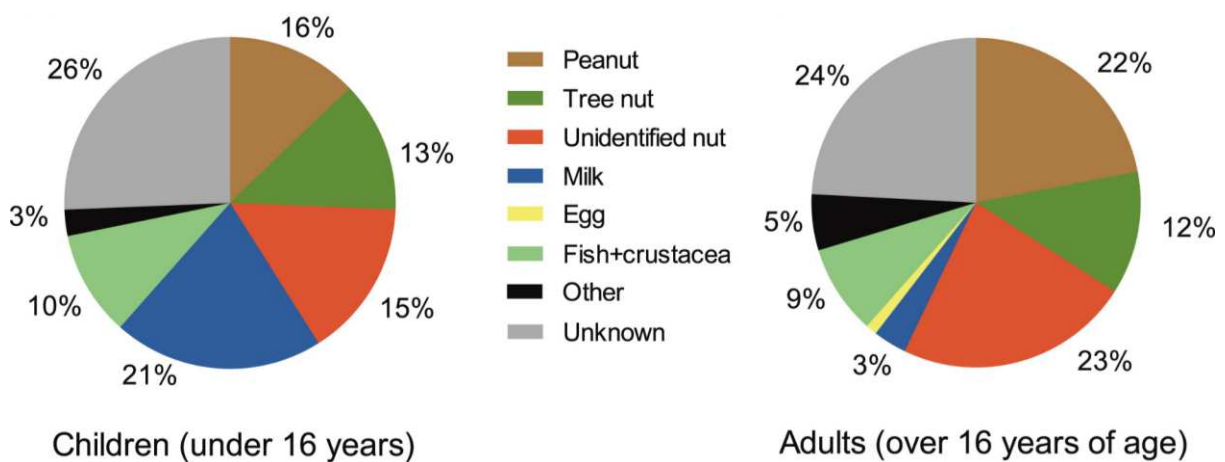
- 2.1 That the committee endorse and support the allergen control approach used during inspections, in order to ensure that Birmingham is a safe place for allergen consumers to visit.

Contact Officer: Nick Lowe, Operations Manager Food
Telephone: 0121 303 2491
Email: nick.lowe@birmingham.gov.uk

3. Background

- 3.1 In the UK it is estimated that 1-2% of adults and 5-8% of children have a food allergy. This equates to around 2 million people. People with allergies can have a reaction called anaphylaxis which can be fatal. An allergic reaction can be produced by a tiny amount of a food ingredient that a person is sensitive to.
- 3.2 Around 10 people die in the UK from allergic reactions to food every year. It is therefore very important that food businesses provide clear and accurate information about allergenic ingredients in their food.

What Foods Cause Fatalities?



- 3.3 In May 2016, Paul Wilson, 38, who had a nut allergy, died after consuming a curry containing peanut. He had explained to staff that his meal must be nut free. The restaurant owner had swapped almond powder for cheaper ground nut mix containing peanuts.
- 3.4 In June 2017, Chole Gilbert, 15 who had a severe dairy allergy died after unwittingly consuming a kebab containing yogurt.
- 3.5 In January 2017, Megan Lee, 15, who had a severe nut allergy died after eating a meal from a takeaway restaurant that contained nuts.

4. Megan Lee's Story

- 4.1 Megan Lee was 15 years old and attended the local secondary school, studying for GCSE's with an interest in musical theatre. At 18 months of age she was diagnosed with asthma and used inhalers on a daily basis. She was diagnosed with a nut allergy at the age of 8 years.
- 4.2 Tests conducted at her GP surgery were consistent with Megan being allergic to coconut, nuts (peanuts and almonds), grass, dust, prawns and pet hair. Megan and

her family were advised that the allergies were 'mild'. No epi-pen was prescribed, with her allergies capable of being controlled with over counter medication.

4.3 Megan was 'fastidious' in what she ate, with good eating habits consisting of 'plain food'. No care plan was in place at school and no previous incidents were noted that may have given reasonable cause to conclude that there ought to be. The last allergic reaction to food was five years prior (aged 10) the likelihood was the consequence of consuming a prawn cracker. The reaction was alleviated with over the counter medication.

4.4 On 30th December 2016 Megan Lee placed an order for starters with her friend, from a local takeaway, via a delivery App, stating in the comments box 'allergic to nuts, prawns'. The food was produced by the takeaway and delivered to her friends house, by the manager of the takeaway. Megan consumed part of a seekh kebab, and started to feel a tingling sensation on her lips and she is administered Piriton. Megan returns to eating the food and consumes half a peshwari naan and an onion bhaji, the following occurred:

- Friends parents call takeaway and advise of reaction
- Takeaway provide no further details on ingredients/potential allergens
- The manager returns to address to find out more information and check on the situation, this was a third chance to provide information, but no further information was provided
- On return home Megan experiences breathing difficulties, and subsequently goes into respiratory and cardiac arrest.
- Megan passed away on 1st January 2017
- Pathologist concluded that the cause of death was

4.5 Acute asthma due to a nut allergy

"Overall, considering the circumstances, clinical history, immunology findings and pathological features of this case it is my opinion that Megan Lee suffered a fatal asthma attack precipitated by an allergic reaction to nuts"

Sampling Results

Food Type	Almond	Peanut	Crustacean	Comment
Chapatti	Almond < 2.5 mg/kg	Peanut < 2.5 mg/kg	Crustacean Allergen < 20 mg/kg	Allergenic substances were not detected in the sample which was satisfactory
Peshwari Naan	Almond < 2.5 mg/kg	Peanut > 20 mg/kg	Crustacean Allergen < 20 mg/kg	The amount of peanut protein in the sample was approximately 5 per cent. I am of the opinion that the presence of peanut protein rendered the food unsafe for a person allergic to peanut
Onion Bhaji	Almond < 2.5 mg/kg	Peanut 13.6 mg/kg	Crustacean Allergen < 20 mg/kg	Peanut protein was detected in the sample and, in my opinion, the food was unsafe due to the presence of a known allergen
Seekh Kebab	Almond < 2.5 mg/kg	Peanut 4.3 mg/kg	Crustacean Allergen < 20 mg/kg	Peanut protein was detected in the sample and, in my opinion, the food was unsafe due to the presence of a known allergen
Dough	N/A	Peanut < 2.5 mg/kg	N/A	Peanut protein was not detected which was satisfactory
Almond	Almond > 20 mg/kg	Peanut 5.0 mg/kg	N/A	Peanut protein was detected in the sample and, in my opinion, the food was unsafe due to the presence of a known allergen

5. Legislation

5.1 Since December 2014 all food businesses have been required to provide information about the allergenic ingredients used in food sold or provided by them. There are 14 major allergens which need to be declared:

Cereals containing gluten	Molluscs
Crustaceans	Celery
Eggs	Mustard
Fish	Sesame
Peanuts	Sulphur Dioxide (>10mg/kg of product)
Soyabeans	Lupin
Milk	Nuts (almonds, hazelnuts, walnuts, pecans, brazil, pistachio, cashew, macadamia)

5.2 Food Information Regulations 2014

These implement the European legislation 'Food Information for Consumers Regulations' and brought about changes to prepacked food labelling. The existing requirements for pre-packed foods were retained, but a new requirement to **emphasise** allergenic foods in the ingredients list was introduced.

It also required allergens to be declared on all non prepacked and catering food, either verbally or in writing. If a food business operator chooses verbal, they must display a notice, and be able to give information verbally. In practice this means:

- Business must know which of the 14 allergens are present in each dish, sundry, drink and condiment that they serve
- Business must display a notice on the wall, or menu, online ordering platform, and ask when taking telephone orders
- Business must be able to give this information to any customer who identifies themselves as having an allergy
- Business must consider how they will pass allergen information on for online orders, telephone orders, and deliveries

5.3 Food Hygiene EC 852/2004

- "Raw materials and all ingredients stored in a food business are to be kept in appropriate conditions designed to prevent harmful deterioration and protect them from contamination." Regulation (EC) 852/2004 Article 4(2) Annex II Chapter IX Para. 2

- “At all stages of production, processing and distribution, food is to be protected against any contamination likely to render the food unfit for human consumption, injurious to health ...” Regulation (EC) 852/2004 Article 4(2) Annex II Chapter IX Para. 3

5.4 In practice this means:

- Businesses must take every step in their power to ensure that anyone who orders an allergen free meal, receives an allergen free meal
- The 14 specified allergens are included.
- Any other allergens not specified in FIC!
- Businesses must ensure that they address allergens as a hazard within their processes and procedures.
- Both as ingredients and as cross contamination

6. Revised Inspection Process and Outcomes

6.1 The control of allergens now forms a major part of our programmed inspections, our internal documentation and aide memoires are specifically designed to direct officers to carry out a robust examination of allergen procedures in the food business.

6.2 The areas considered when carrying out a food hygiene inspection are:

- Management of allergens
Allergen control must form part of a business’s food safety management system
- Training
How much training have the staff had?
Do staff understand allergen control?
Can they tell you the allergens that must be listed on packaging or know where to go for assistance?
Do staff understand the severity of allergies and the issue surrounding cross contamination?
Do staff understand product substitution i.e. peanuts for almonds in curries?
What would they do in practice if a customer asked for a product free from an ingredient?
- Storage of allergens
Where are allergens stored?
Can allergens contaminate other products or become contaminated themselves? Milk leaking?
Are there cross-contamination issues?
Are all allergens marked where required?
If there is there a colour code system in place, is it adhered to?

- Preparation
 - Do they have any set procedures when preparing food for a customer with a food allergy?
 - What controls do they have in place to prevent cross contamination when preparing a dish for an allergy suffer ?
 - Are all allergens marked where required?
 - If there is there a colour code system in place, is it adhered to?
- Cleaning
 - Is cleaning effective?
 - Heat alone doesn't remove allergen protein
 - Is there a risk of cross contamination?
 - Could cleaning cloths be contaminated with allergenic material?
 - Are there good hand-washing practices in place and observed?
 - Are there any circumstances where gloves are used?
 - Are gloves changed as required?

6.3 Where businesses are failing in their responsibilities we are now taking immediate action. If a business is offering allergy free options, and our assessment it that this is not safe we are issuing 'Stop Requirements'. This document details how the business is failing and requires them to stop offering food to customers that present with an allergy, and to display a sign to that effect. This ensures that customers are not put at an unacceptable risk.

6.4 This is then followed up with appropriate statutory notices, either to deal with the lack of accurate and available information on allergens, or to deal with the potential for cross contamination due to poor hygiene practices.

6.5 To date the service has issued 192 Stop Requirements' and served 86 statutory notices to rectify allergen deficiencies. We are also currently investigating a number of cases where consumers with an allergy were sold harmful food.

7. Implications for Resources

7.1 The time involved in undertaking all interventions has increased due to this more intensive analysis of allergen control. Officers have been provided with the tools and resources to undertake this work and it is expected that as standards improve the time necessary for this will reduce. However, in Birmingham, it is important to recognise that Environmental Health is the only service visiting food businesses to check for allergen related compliance.

8. Implications for Policy Priorities

8.1 In 2019 serious allergen incidents are continuing and a number of people have lost their lives. It is a fact that a large number of businesses are still not compliant and therefore allergy sufferers have false confidence in the ability of food businesses to prepare allergen free meals.

8.2 It is important that all groups within Birmingham, as well as visitors to the city, are offered suitable safety standards in food businesses to allow them to eat out safely, with confidence, this must include customers with an allergy.

9. Public Sector Equality Duty

9.1 Equality issues are accounted for during activities carried out by officers.

Head of Environmental Health

on behalf of:

ACTING ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: nil

Allergen Project 2019/20

Food Information Regulations 2014

- In the UK it is estimated that 1-2% of adults and 5-8% of children have a food allergy. This equates to around 2 million people.
- People with allergies can have a reaction called anaphylaxis which can be fatal.
- An allergic reaction can be produced by a tiny amount of a food ingredient that a person is sensitive to.
- Around 10 people die in the UK from allergic reactions to food every year. [BCC has had 6 serious but non-fatal reports in the last 18 months]
- It is therefore very important that food businesses provide clear and accurate information about allergenic ingredients in their food.

Recent Cases

In May 2016, Paul Wilson, 38, who had a nut allergy, died after consuming a curry containing peanut. He had explained to staff that his meal must be nut free. The restaurant owner had swapped almond powder for cheaper ground nut mix containing peanuts.

In June 2017, Chole Gilbert, 15 who had a sever dairy allergy died after unwittingly consuming a kebab containing yogurt.

In January 2017, Megan Lee, 15, who had a severe nut allergy died after eating a meal from an Indian restaurant that contained nuts.

Megan's Story

Lancashire Council has investigated the matters that lead up to Megan Lee's death.

The video at <https://youtu.be/hL-beO7Wg0E> really puts into context the impact of non-compliance with allergen controls

Sampling Results

Food Type	Almond	Peanut	Crustacean	Comment
Chapatti	Almond < 2.5 mg/kg	Peanut < 2.5 mg/kg	Crustacean Allergen < 20 mg/kg	Allergenic substances were not detected in the sample which was satisfactory
Peshwari Naan	Almond < 2.5 mg/kg	Peanut > 20 mg/kg	Crustacean Allergen < 20 mg/kg	The amount of peanut protein in the sample was approximately 5 percent. I am of the opinion that the presence of peanut protein rendered the food unsafe for a person allergic to peanut
Onion Bhaji	Almond < 2.5 mg/kg	Peanut 13.6 mg/kg	Crustacean Allergen < 20 mg/kg	Peanut protein was detected in the sample and, in my opinion, the food was unsafe due to the presence of a known allergen
Seekh Kebab	Almond < 2.5 mg/kg	Peanut 4.3 mg/kg	Crustacean Allergen < 20 mg/kg	Peanut protein was detected in the sample and, in my opinion, the food was unsafe due to the presence of a known allergen
Dough	N/A	Peanut < 2.5 mg/kg	N/A	Peanut protein was not detected which was satisfactory
Almond	Almond > 20 mg/kg	Peanut 5.0 mg/kg	N/A	Peanut protein was detected in the sample and, in my opinion, the food was unsafe due to the presence of a known allergen

What can we do?

The overriding purpose of food hygiene inspections found in **EC 852 / 2004** is;

“The principal objective ... is to ensure a high level of consumer protection with regard to food safety”

Food Law Code of Practice (2017) 5.2.1.2 Food hygiene interventions

“Food hygiene interventions are part of the system for ensuring that food meets the requirements of food hygiene law, including microbiological quality; absence of pathogenic micro-organisms; and safety for consumption.”

Food Information Regulations 2014

Since December 2014 all food businesses have been required to provide information about the allergenic ingredients used in food sold or provided by them. There are 14 major allergens which need to be declared:

Cereals containing gluten

Crustaceans

Eggs

Fish

Peanuts

Soyabeans

Milk

Molluscs

Celery

Mustard

Sesame

Sulphur Dioxide (>10mg/kg of product)

Lupin

Nuts (almonds, hazelnuts, walnuts, pecans, brazil, pistachio, cashew, macadamia)

Food Inspections

Areas to consider when carrying out a food hygiene inspection:

- Management
- Training
- Storage
- Preparation
- Equipment
- Cleaning

Immediate stop document



YOU MUST NOT SERVE ALLERGEN FREE FOODS WITH IMMEDIATE EFFECT	
Business name	
Business address	
Food Business Operator	

During my inspection of the above food business, I believe you are failing to comply with the relevant provisions applicable to the provision of information/management of allergens at your food business in that:

1. You have failed to provide information (e.g. display a notice) advising customers how to obtain allergen information when making choices about the food they may choose to consume from your business*
2. You have failed to make available verifiable information on the allergenic ingredients present in your dishes*
3. In relation to distance selling of food (telephone/internet sales) - you have failed to put in place a procedure to ensure that allergenic information is available before the purchase of food and at the point of delivery to the customer*
4. You were not able to demonstrate that you had adequate procedures / controls in place to manage the risks associated with providing allergen free foods (e.g. cross-contamination risks, documented allergen control procedures, poor staff knowledge)*

* Please see overleaf for my reasons explaining why you are not complying with the above requirements.

In order to protect those customers who may wish to consume food from your business, who suffer from food allergies or intolerances, you **MUST** stop serving any customers who advise you they have a food allergy or intolerance, until a time that you have taken steps to remedy the above matters.

You must also ensure that all staff are informed of this decision that they do not serve customers with allergies/intolerances in your absence, and display the sign provided to inform customers of the allergen specific risks.

Declaration by food business operator (or nominated person in the absence of such) of receiving this information and a copy of the above mentioned sign.

Business representative: Date:

Signed: Position:

Authorised Officer: Tel:

Signed: Date:

Food Information Regulations 2014
EC Regulation 853/2004
EC Regulation 1762/002

Environmental Health, Manor House, Most Lane, Birmingham B5 5BD



The reasons for my opinion are:	
1	
2	
3	
4	

Should you wish to restart serving customers with allergies, you must contact this Department so that the measures that you have put in place to protect customers with food allergies / intolerances can be verified prior to restarting to offer allergen free meals.

- Reasons to be added on the back, e.g. Lack of allergen related staff training, inadequate storage of allergens etc.

Sign to display

FOOD ALLERGIES

Due to the nature of our business we cannot currently guarantee that food prepared on these premises is free from celery, cereals containing gluten, crustaceans, eggs, fish, lupin, milk, molluscs, mustard, nuts, peanuts, sesame seeds, soya and Sulphur dioxide

This sign is being displayed in accordance with guidance from Birmingham City Council, Environmental Health

Examples of Non-compliance

-



Any questions?

BIRMINGHAM CITY COUNCIL**REPORT OF THE INTERIM ASSISTANT DIRECTOR OF REGULATION AND
ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE****15 JANUARY 2020
ALL WARDS****DRAFT STREET TRADING POLICY CONSULTATION REPORT****1. Summary**

- 1.1 Birmingham City Council is the Licensing Authority responsible for considering applications for a range of activities that require a street trading consent under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 This legislation allows the Council to set a Policy, conditions and fees for the grant, variation, renewal and revocation of street trading consents or licences.
- 1.3 Birmingham adopted street trading provisions in 1984, which state all public roads are classified as 'consent streets' for the purposes of street trading. No formal Street Trading Policy has ever been adopted.
- 1.4 A draft Street Trading Policy 2020 (appendix 1a, 1,2,3,4,5 and 6) has been produced and formal consultation commenced on 16 December 2019 and is scheduled to close on 23 February 2020.
- 1.5 The purpose of this report is to consult with and invite comment from members of the Licensing and Public Protection Committee which will then be considered when producing the final version of the policy.

2. Recommendation

- 2.1 That Officers record any comments/responses made by members of the Licensing and Public Protection Committee as responses to the formal consultation.
- 2.2 That these comments/responses are considered along with all other responses as part of the formal consultation process.

Contact Officer: Sajeela Naseer, Head of Trading Standards and Markets Service
Telephone: 0121 303 6112
Email: Sajeela.naseer@birmingham.gov.uk

3. Background

- 3.1 The legislation that applies to street trading is contained in the Local Government (Miscellaneous Provisions) Act 1982 and the Pedlars Act 1871. Some exceptions are contained in the Police, Factories etcetera (Miscellaneous Provisions) Act 1916 relating to charitable street collections
- 3.2 The 1982 Act allows local authorities to adopt provisions to control street trading as follows:-
- Prohibited Streets- where no street trading is allowed;
 - Consent Streets- where trading is allowed when a consent is issued;
 - Licensed Streets- whereby trading is allowed from a designated pitch- this is often used for street markets.
- 3.3 There is no appeal against the refusal to issue a consent, but there is an appeal in the event there is a refusal to issue a licence. If the local authority does not apply a designation for street trading there are the legislative controls are minimal and generally only cover pedlars and charity issues.
- 3.4 Birmingham adopted street trading provisions in 1984, which state all public roads are classified as 'consent streets' for the purposes of street trading. No formal street trading policy has ever been implemented
- 3.5 The adoption of a proposed street trading policy is an Authority function, but the implementation of the policy is a non-executive function carried out by the Licensing and Public Protection Committee.

The Leader has approved the policy direction (subject to consultation) that is reflected in the draft Street Trading Policy 2020.

4. Key Drivers for Policy Direction

- 4.1 The city of Birmingham has undergone and will continue to undergo significant changes in years ahead. These changes (listed below) are the key drivers in influencing the policy direction outlined in section 5 of this report.
- Changing infrastructure throughout Birmingham
 - Introduction of red routes, tramways, public squares and pedestrianised areas and hostile vehicle mitigation
 - City Centre Public Realm Revitalisation
 - Big City Plan
 - 2022 Commonwealth Games
 - Business Improvement Districts
 - Supporting businesses and consumer needs
 - Frankfurt Christmas Market

5. Key Policy Issues within the Draft Policy

- 5.1 The introduction of prohibited streets (Red Routes and Metro Routes). All other streets will be consent streets
- 5.2 The introduction of annual, occasional and mobile (ice cream vans) consents.
- 5.3 Introduction of design brief for trading units for annual consents over 12 weeks. The design brief was prepared by planning and includes a maximum size 2.2m (width) 4.8m (length) 2.5m (height) and the stipulation of no trading outside the unit or from canopies.
- 5.4 All street trading to be at least 30m apart except for match day traders.
- 5.5 Public safety, the prevention of crime, disorder and public nuisance, and an enhanced retail offer is at the heart of the considerations to approve, revoke, vary a consent.
- 5.6 The factors that will be considered at application are so extensive they will prevent obstruction of the highway, retail business visibility and will enable Birmingham City Council to direct the location, size and product offer in any area.
- 5.7 The process will enable revocation if consent conditions are not adhered to or for any other reason. There is no statutory appeal against revocation, variation, non-renewal or refusing the application
- 5.8 Following resolution of the policy it is proposed that a 6 week window should be opened to enable all interested traders to apply for a consent and that those applications should be considered at the same time against the aim of the policy and the consent considerations.
- 5.9 Full implementation is likely to be 1 September 2019 when all new street trading consents have been issued and the traders are in position trading.

6. Consultation

- 6.1 The formal consultation was launched on 16 December 2019 on BeHeard and is until 23 February 2019. A link has been placed from Birmingham City council's website to the BeHeard page. This enables all stakeholders to comment on the consultation.
- 6.2 All current street trading consent holders and BID Managers have been written to informing them of the consultation and how to comment. Communication of the consultation has also been made to West Midlands Police, West Midlands Fire Service, Transport for West Midlands and internal Birmingham City Council divisions.

- 6.3 This report is an additional method to ensure suggestions or proposals put forward by the Committee will, where appropriate, be included within the revised document(s).
- 6.4 All LPPC members and other elected members can submit feedback via the BeHeard link <https://www.birminghambeheard.org.uk/place/street-trading-policy-2020>
- 6.5 All consultees are requested to make any suggestions for amendments before 23 February 2020 in order that they may be considered when producing the revised documents.
- 6.6 A proposed timetable is attached at appendix 7 which outlines the expected progression of this matter. This timetable may be subject to change, dependent upon the results of the consultation.
- 6.7 Responses to the consultation will be used to inform revisions to be made to the draft Policy and associated conditions. It is envisaged that a final version of the policy will be brought before Full Council on 7 April 2020 that takes account of the comments from the consultation, as far as is practicable.
7. Implications for Resources
- 7.1 The cost of administration and compliance activity for street trading consent met through the consent fees. This includes the cost of devising and reviewing Policies.
8. Implications for Policy Priorities
- 8.1 The issues addressed in this report relate to the City Council priorities of: Birmingham is an entrepreneurial city to learn, work and invest in, and Birmingham is a great city to live in.
9. Public Sector Equality Duty
- 9.1 The benefit of an agreed Policy is to ensure a consistent approach.
- 9.2 Consultation will be carried out with other interested parties, as detailed in Section 6 of this report.

INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT

Prohibited Streets- Birmingham City Council Red Routes

A4540 Ring Road Birmingham Red Route

Dartmouth Circus
A4540 Dartmouth Middleway
A4540 Lawley Middleway
Curzon Circus
A4540 Lawley Middleway
Garrison Circus
A4540 Watery Lane Middleway
Bordesley Circus
A4540 Bordesley Middleway
Camp Hill Circus
A4540 Camp Hill Middleway
A4540 Highgate Middleway
Haden Circus
A4540 Belgrave Middleway
Belgrave Interchange
A4540 Lee Bank Middleway
A4540 Islington Row Middleway
Five Ways
A4540 Ladywood Middleway
Ladywood Circus
A4540 Ladywood Middleway
Spring Hill roundabout
A4540 Icknield Street
Key Hill Circus
A4540 Boulton Middleway
Lucas Circus
A4540 New John Street West
A4540 Newtown Middleway
Dartmouth Circus

A38 Queensway Birmingham Red Route

A38 Bristol Street (entire length, from junction with Lee Bank Middleway to Holloway Circus)
Holloway Circus
A38 Suffolk Street Queensway
Paradise Circus
A38 Great Charles Street Queensway
A38 St. Chad's Queensway
Lancaster Circus

Walsall Road etc. Birmingham Red Route

Includes the B4114 from Lancaster Circus to the junction with the A4540 New John Street West, and from there, continuing as the same road, the A34 to the city boundary with Sandwell at Scott Arms.

B4114 Lancaster Street (Lancaster Circus to Princip Street)

B4114 / A34 Newtown Row (Princip Street to Phillips Street)

A34 High Street (Phillips Street to Lozells Road)

A34 Birchfield Road (Lozells Road to junction with the A453 Aldridge Road)

A34 Walsall Road (junction with the A453 Aldridge Road to the city boundary)

A38 Kingsbury Road Birmingham Red Route

A38 Kingsbury Road from the junction with the Tyburn Road to the Minworth island roundabout.

Tyburn Road Birmingham Red Route

A38 Corporation Street (Lancaster Circus to canal bridge)

Aston Road (canal bridge to Dartmouth Circus)

A5127 Aston Bridge, northbound (Dartmouth Circus to junction with Avenue road, then Aston Road North to junction with Rocky Lane)

A5127 Aston Road North / Aston Road, southbound (Rocky Lane to Dartmouth Circus)

A5127 Lichfield Road (Rocky Lane to Salford Circus)

Salford Circus

A38 Tyburn (Road Salford Circus to junction with Kingsbury Road)

A45 Coventry Road Birmingham Red Route

A45 Small Heath Highway (entire length)

A45 Coventry Road (Heybarnes Circus to the city boundary with Solihull), including the section of the westbound New Coventry Road

A34 Stratford Road Birmingham Red Route

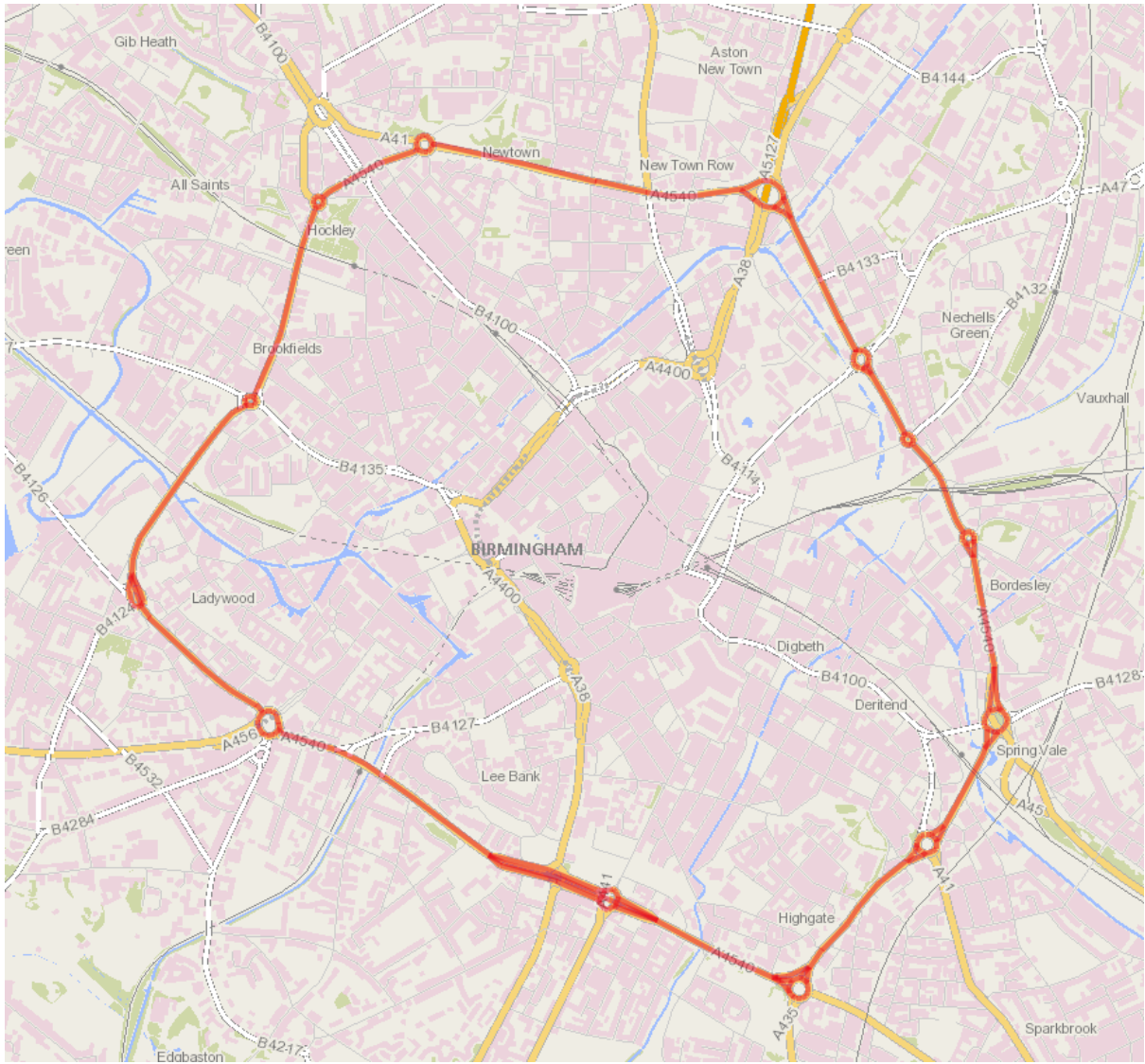
A34 Stratford Road (from Camp Hill Circus to the city boundary with Solihull)

MAPS FOR ILLUSTRATIVE PURPOSES ONLY

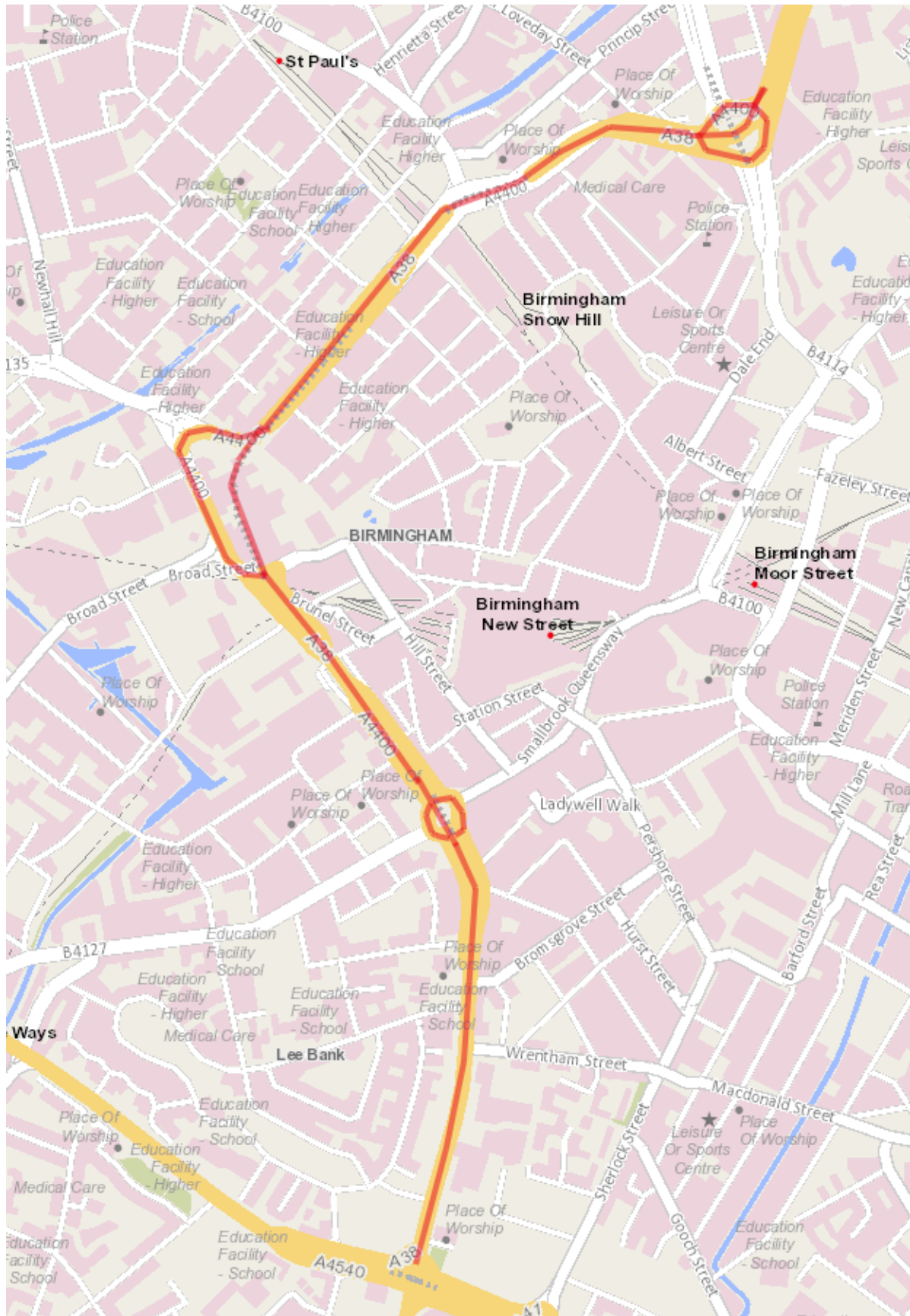
Birmingham City Council – Red Route Overview



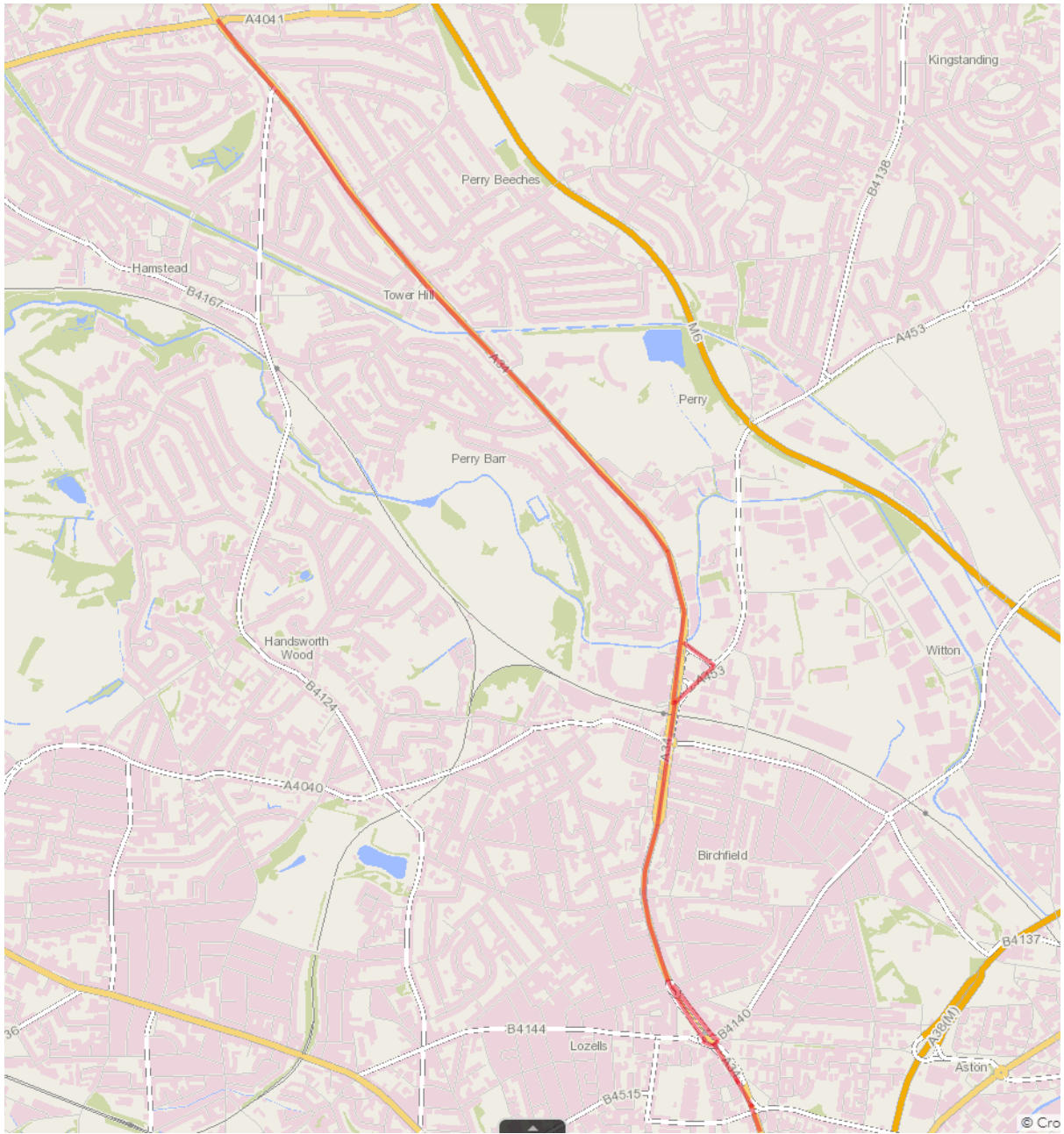
A4540 Ring Road Red Route



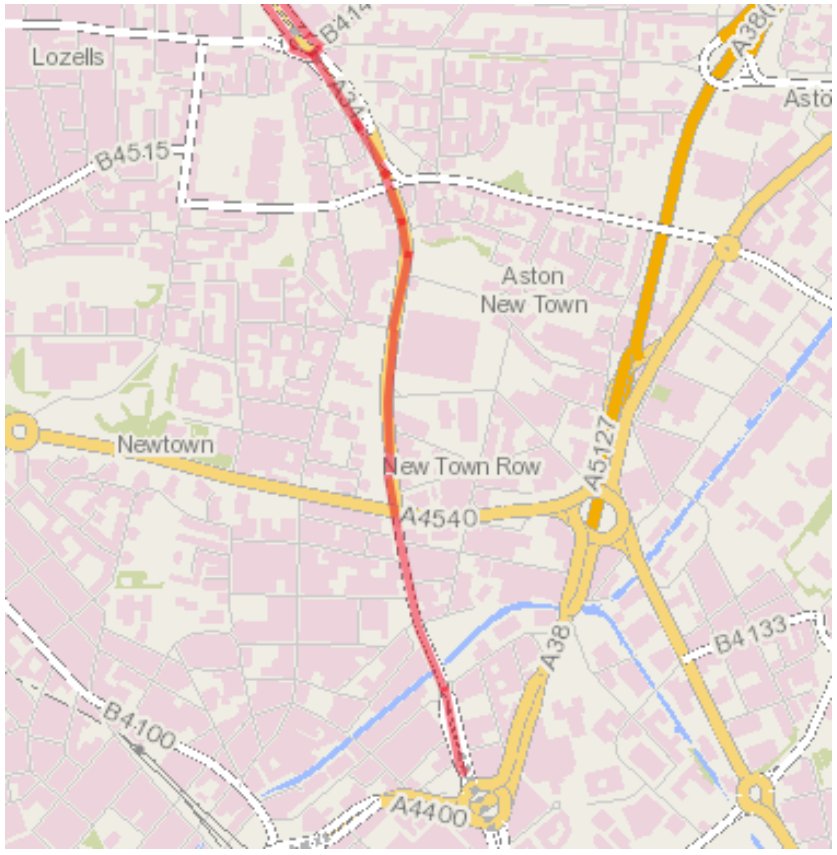
A38 Queensway Red Route



Walsall Road Red Route(Scott Arms junction to Birchfield Road)



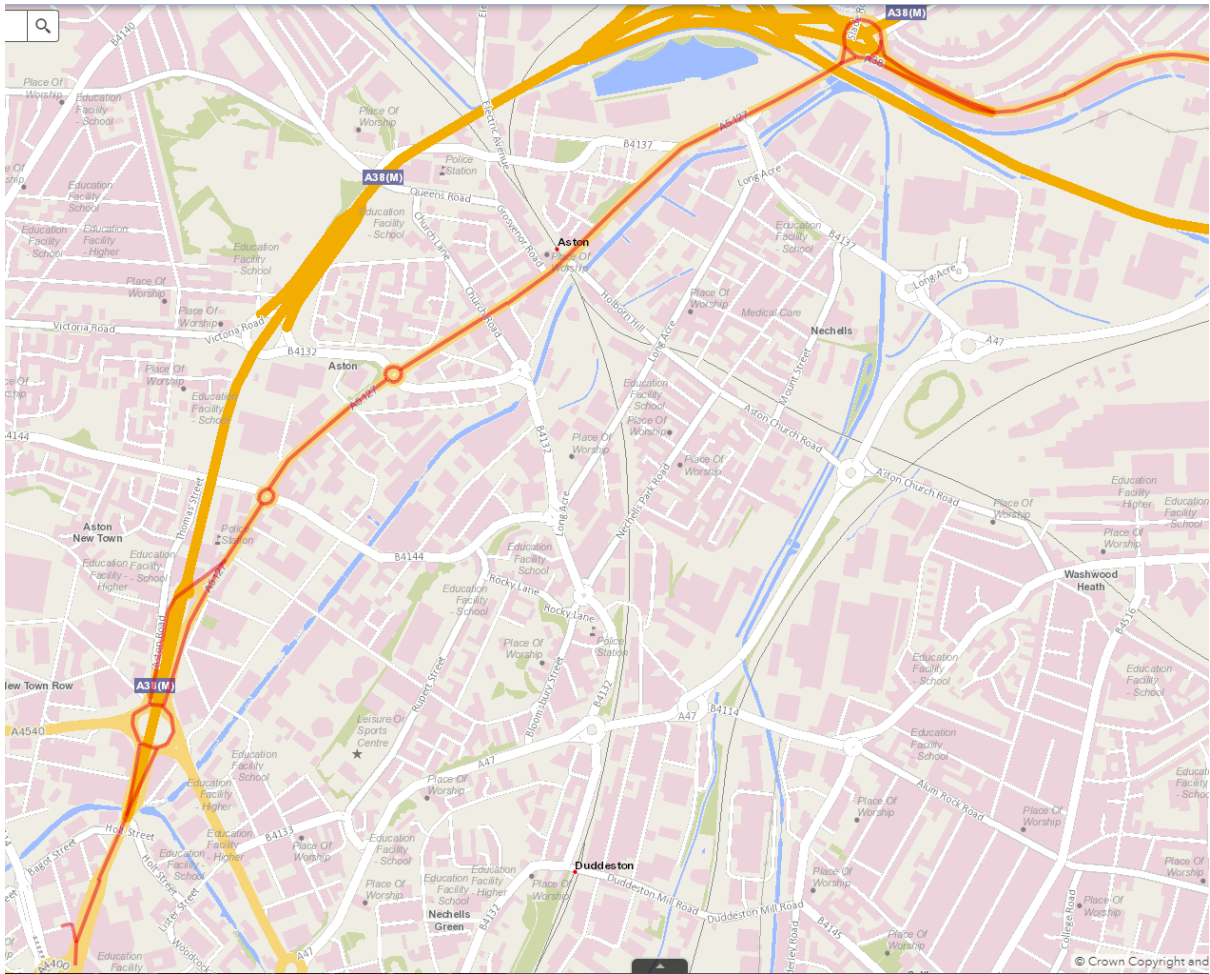
Walsall Road Red Route (Birchfield Road to Lancaster Street)



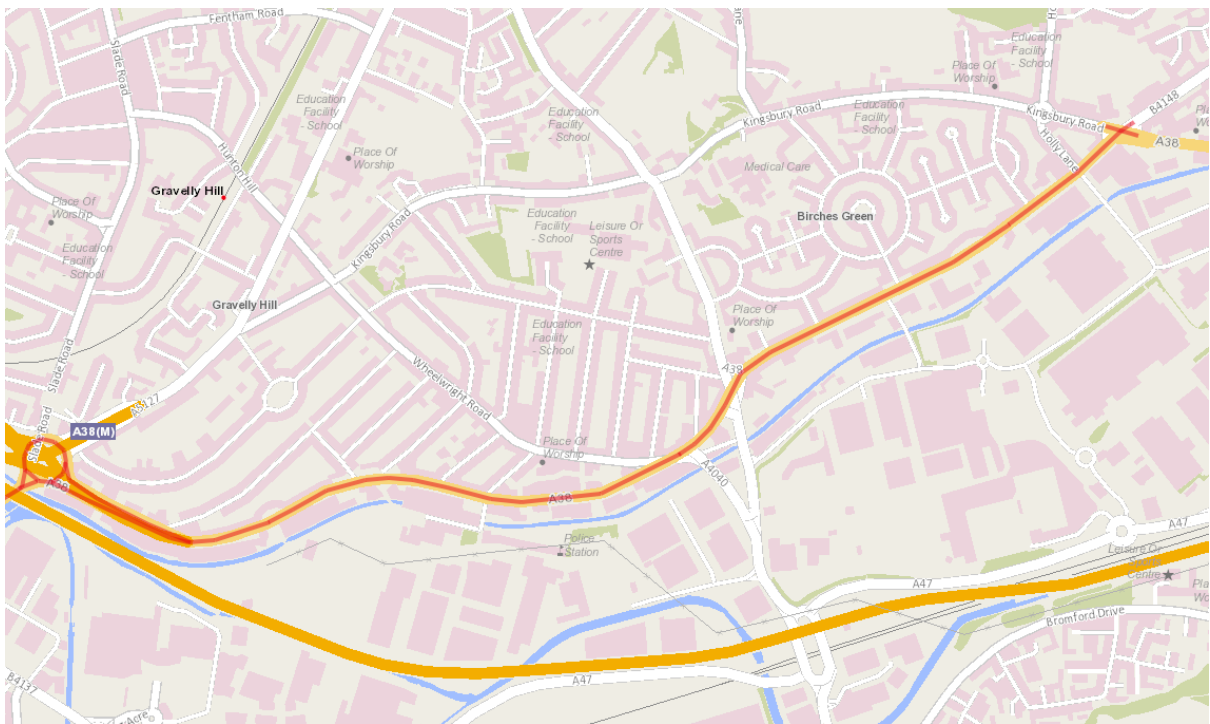
A38 Kingsbury Road Red Route



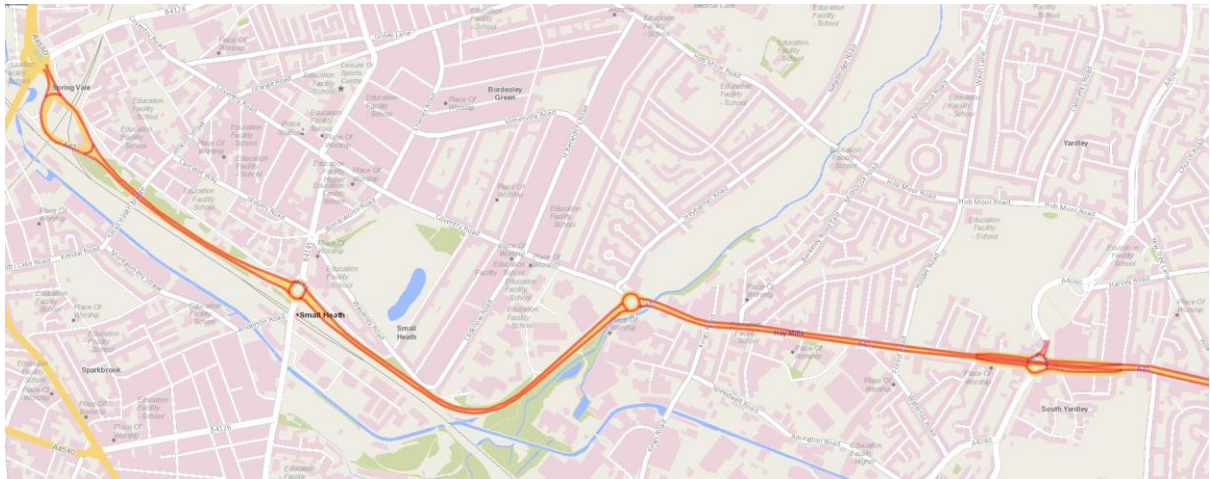
Tyburn Road Red Route (Corporation Street to Bromford Lane junction)



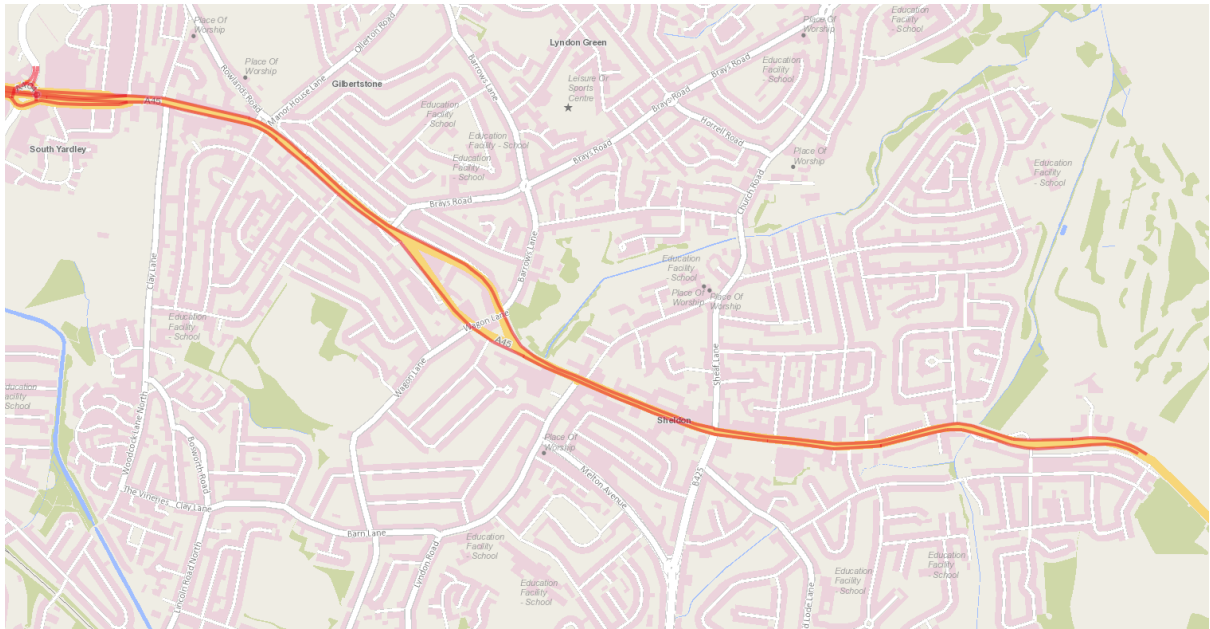
Tyburn Road Red Route (Salford Circus to Kingsbury Road junction)



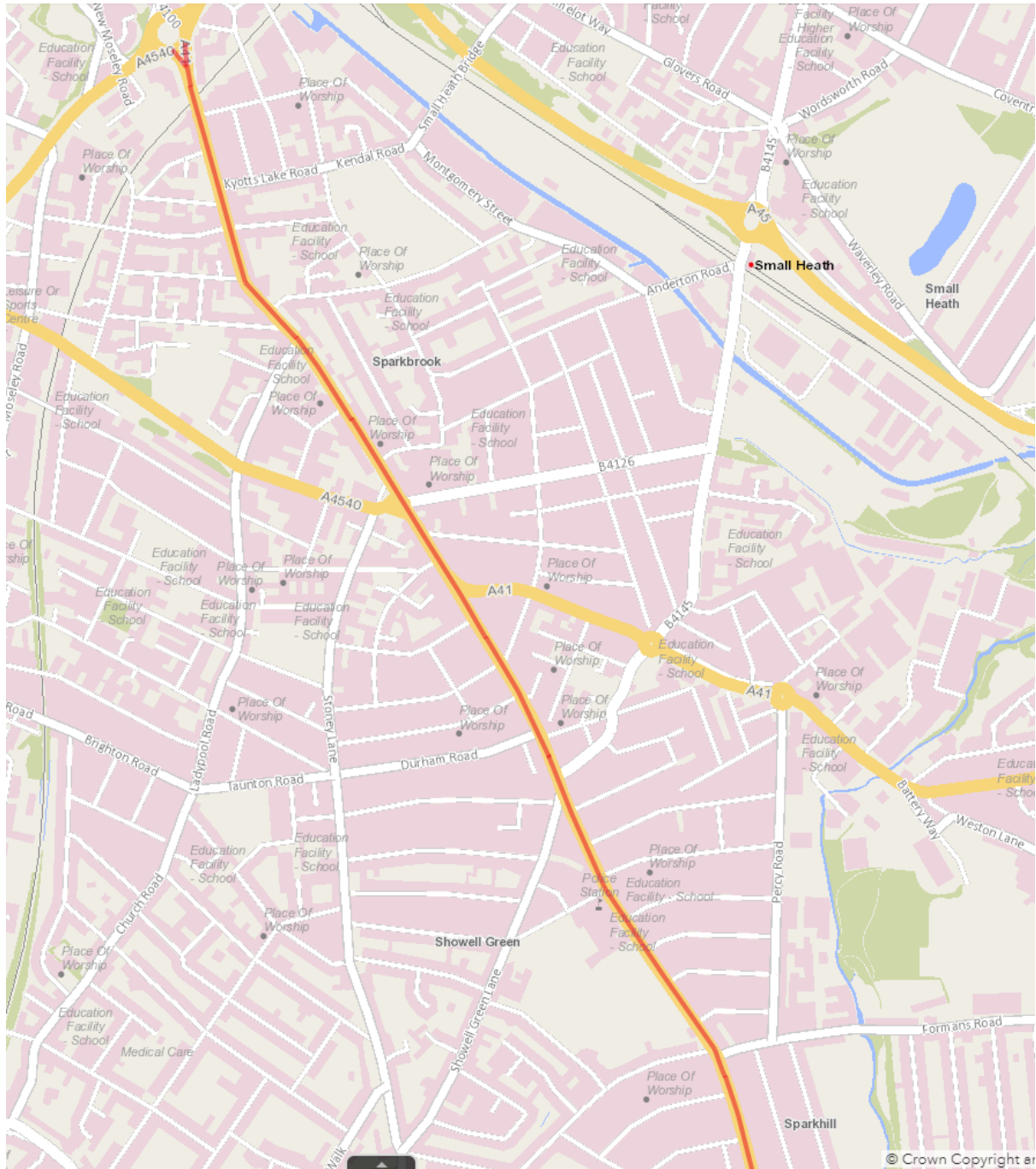
A45 Coventry Road Red Route (Bordesley Circus to Clay Lane)



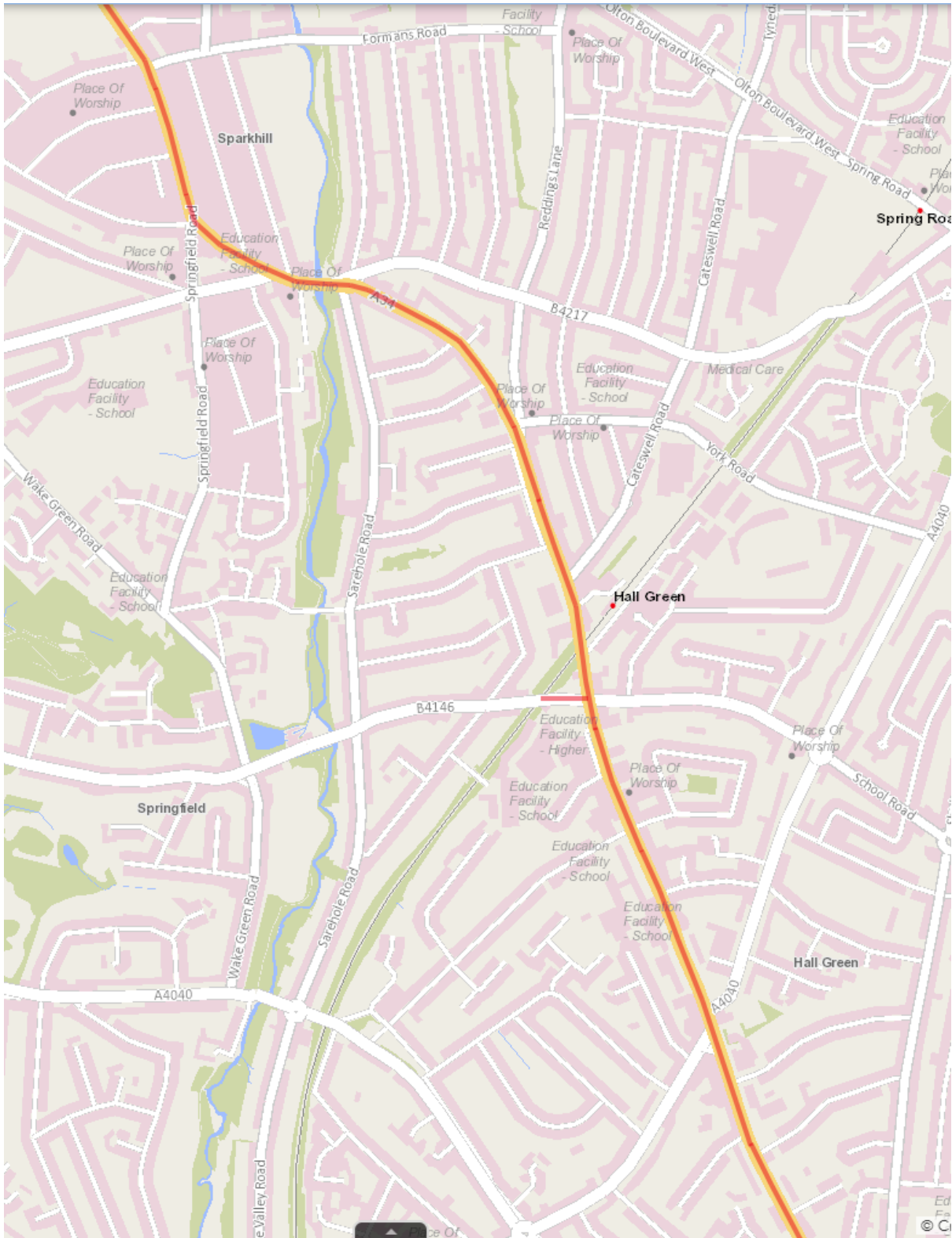
A45 Coventry Road Red Route(Swan Island to Solihull Boundary)



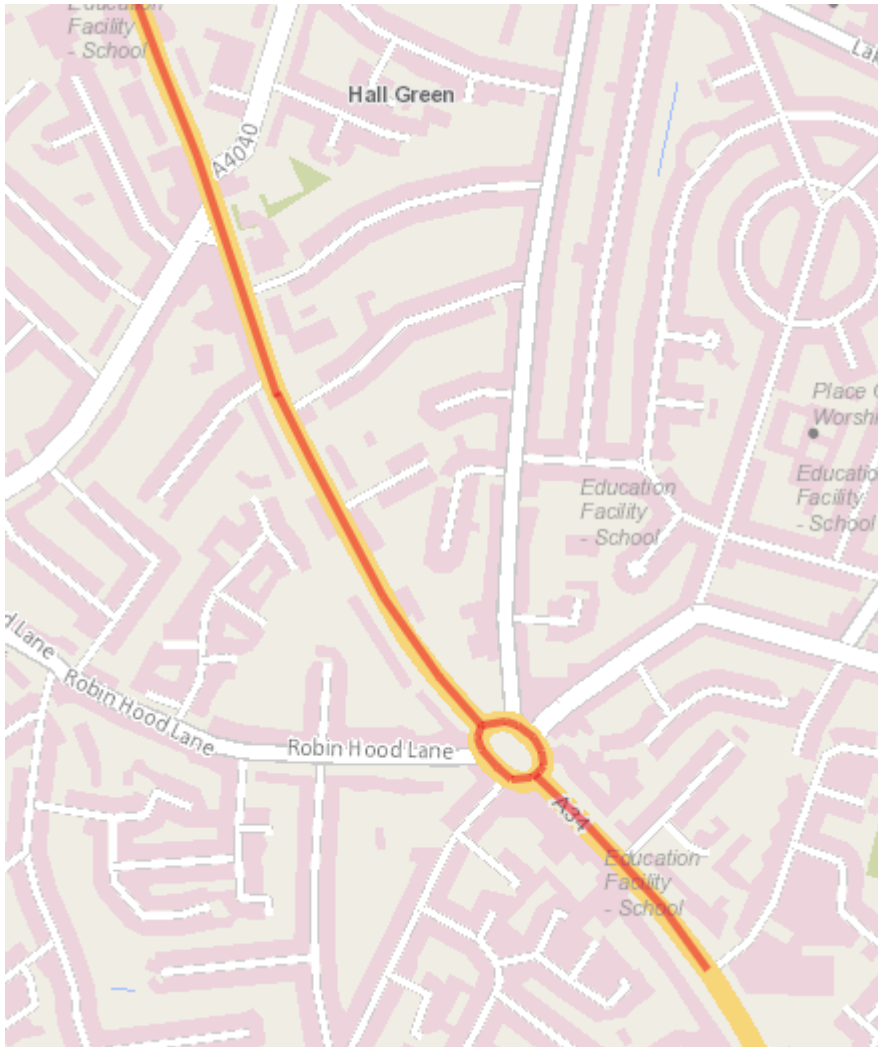
Stratford Road Red Route (Camp Hill Circus to Greswolde Road)



Stratford Road Red Route (Formans Road to Beechcroft Avenue)



Stratford Road Red Route (Fox Hollies Road to Greenhill Way)



Birmingham City Council Draft Street Trading Policy

2020

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1. Introduction

Birmingham City Council is the Licensing Authority responsible for considering applications for a range of activities that require a street trading consent under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 referred to in this policy as “the Act”.

The aim of this Street Trading Policy is to **create a street trading environment which is sensitive to the needs of the public and businesses, provides quality consumer choice and contributes to the character and ambience of the local environment whilst ensuring public safety, and preventing crime, disorder and nuisance.**

Street trading can aid the local economy and contribute to the facilities offered to people who visit, live and work in Birmingham and it supports the Birmingham City Council’s priorities:

- Birmingham is an entrepreneurial city to learn, work and invest in
- Birmingham is a great city to live in

This policy will be reviewed in 2021 and then formally every five years; however, it will be kept under continuous review and where any significant amendments are considered necessary these will be made by the Authority function of Birmingham City Council after appropriate and relevant consultations have taken place. Minor amendments that do not impact on the aim and objectives of the policy, for example due to changes in legislation, review of design brief etc. will be made in line with current delegation scheme.

An Equality Assessment on this policy has been undertaken.

2. Purpose of Policy

The purpose of this policy sets out the criteria and guidance that Birmingham City Council (hereafter referred to as the Council) will use as the regulatory framework for street trading. This policy will inform applicants and organisers of special events of the parameters by which the Council will make decisions. It will also give prospective traders an early indication as to whether their application is likely to be granted or not. It also provides prospective applicants with details of what is expected of them.

The policy recognises the importance of street trading to the local economy and the character of the area whilst trying to ensure that location and activities do not cause obstruction, nuisance or annoyance.

3. Definition of street trading

Street trading is defined in paragraph 1 of Schedule 4 of the Act as:

‘the selling or exposing or offering for sale of any article (including living thing) in a street’.

The Act defines the term 'street' as including:

'any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980'.

Streets located on private land are included within the scope of this policy.

The Act in paragraph 1(2) of schedule 4 states that the following types of trade are not street trading:

- *A pedlar trading under the authority of a pedlar's certificate granted under the Pedlar's Act 1871;*
- *Anything done in a market or fair, the right to hold which was acquired by virtue of a grant, enactment or order;*
- *Trading in a trunk road picnic area provided by the secretary of state under section 112 of the Highways Act 1980.*
- *Trading as a news vendor.*
- *Trading carried on at a premises used as a petrol station.*
- *Trading carried on at premises used as a shop or in a street adjoining a shop where the trading carried on is part of the business of the shop.*
- *Selling things, or offering or exposing them for sale as a roundsman.*

4. Types of street

Streets may be designated as either 'prohibited', 'licensed' or 'consent streets' for the purpose of street trading.

Definitions:

Prohibited streets

If a street is designated as a prohibited street then a criminal offence is committed by any person engaging in street trading in that street. There could be a number of reasons for wishing to designate a street as prohibited. For example the street may not be wide enough to facilitate a trader or the council may wish to restrict trading in a particular location. All current red routes and metro routes (and approved extensions) within Birmingham are prohibited streets (Appendix 1 details prohibited red routes and Appendix 2 details prohibited metro routes).

Licensed streets

A licensed street designation is considered appropriate for the more formalised market type of trading in a street where the strict control of a limited amount of space is required. There are no licensed streets within Birmingham.

Consent Streets

Designating a street a consent street enables trading to take place upon it, subject to the trader receiving a consent to trade from the Council. All streets within Birmingham are designated as consent streets with the exception of the prohibited streets.

5. Street trading within Birmingham

Birmingham City Council has designated all streets within the Birmingham as consent streets, except all red routes and metro routes which are prohibited. This policy applies to all street trading which is undertaken within the Birmingham.

This policy refers at times to the city centre. This is defined as the area of the city within the A4540 (Inner Ring Road).

Where an applicant wishes to trade on private land, a consent will not be granted by the Council unless the applicant provides written permission from the land owner showing they have permission to trade.

Street trading consents are issued by Birmingham City Council. The consents come under the following classifications:

Annual Street Trading

This is a consent that lasts up to 12 months and enables the trader to trade up to seven days a week at a particular pitch within Birmingham. An annual consent will not be granted for periods of less than four weeks.

Occasional Street Trading

This type of Occasional consent will last for one trading day for a particular pitch in Birmingham. No more than 30 consents will be issued per pitch, per financial year.

Mobile Street Trading

This is where a trader operates on various streets within the district rather than a fixed location e.g. ice cream van sellers, sandwich sellers.

Special Event Street Trading

The Birmingham Corporation (Consolidation) Act 1883 gives Birmingham City Council the market rights for any market (five stalls or more) within six and two thirds miles of a market run by Birmingham City Council. At present this is the Bullring Markets and the distance is measured from St. Martins Church, Birmingham City Centre. Therefore any special events held within this ring-fence will be subject to an application for and the granting of a licence issued by the Markets Service. Street trading consent is not required for licensed markets.

If the special event is for street trading of less than five stalls or outside this ring-fence the organiser of an event will apply to the Council requesting their event to be considered a 'special event' where street trading is taking part at the event. The event organiser will provide full details of each trader attending the event. Consents will be issued by the Council to individual traders on successful application to the council.

6. Why do we have street trading?

Street trading supports the Birmingham City Council's priorities of:

- Birmingham is an entrepreneurial city to learn, work and invest in
- Birmingham is a great city to live

Street trading encourages a vibrant and prosperous economy. It provides valuable

employment opportunities for local people as well as a seedbed of entrepreneurship, allowing new entrants to test their business skills and ideas in an environment which has a low start-up costs, minimal overheads and existing customer footfall.

Goods on sale in the street provide convenient access to hot and cold drinks, fresh fruit and vegetables, household goods and other services for local communities, those travelling to work, and the visitors to Birmingham. The designation of both consent and prohibited streets within Birmingham has taken place to support:

- Public safety
- Prevention of crime and disorder
- Prevention of public nuisance
- An enhanced retail offer

7 Implementing this Policy

Upon resolution of this Policy the Council will open a six week window in which any applicant can apply for a consent for street trading in Birmingham. At the end of this six week period the Council will consider all applications at the same time against the criteria in this Policy. Consents will be granted to those applicants who best reflect the aim of this policy to:

“create a street trading environment which is sensitive to the needs of the public and businesses, provides quality consumer choice and contributes to the character and ambience of the local environment whilst ensuring public safety, preventing crime, disorder and nuisance”

Application received outside this six week window will be considered in date order and against the criteria set out in this Policy and its aim.

The implementation date of street trading consents received and approved during the initial six week period will be 1 September 2020.

8 Key considerations when assessing an application

The following criteria apply to all types of street trading:

Public safety

- The proposed location of the activity should not present a significant risk to the public in terms of highway safety and obstruction.
- All locations will require an officer visit before a consent can be issued.
- Applications in respect of sites that have previously been the subject of refusal due to the unsuitability of the location are unlikely to be accepted.

Prevention of crime and disorder

- The proposed activity should not present a risk of crime and disorder to the public.

Prevention of nuisance

- Activities at the pitch must not cause a nuisance, annoyance or disturbance to neighbouring properties, this includes businesses. Controls must be in place to ensure that nuisance from noise, light, refuse, vermin, fumes, obstruction, littering, and smells does not occur.
- If at any time the City Council receives complaints a nuisance, annoyance or disturbance is occurring, the Council is duty bound to investigate and, if complaints are found to be justified, may decide to take enforcement action, including withdrawal of the consent.

Suitability of the applicant

- Birmingham City Council will consider any unspent the convictions the applicant may have and this information will be requested in the application form.
- When determining whether an applicant is suitable, the Council will consider the reliability of the applicant in paying fees and charges based on previous history.
- An applicant's history of street trading will also be taken into consideration e.g. whether previous street trading consents have been used appropriately and whether the Council's requirements have been met, including deadlines.

Suitability of the trading unit

- The vehicle, trailer or unit (now referred to as a 'unit' within this policy) to be used should be of a high quality design (that complies with the Council's design brief, including size and colour if appropriate –Appendix 3), build, be harmonious with the character of the locality, add to the quality of the street scene and comply with the legal requirements for the activity proposed.
- The design brief will apply to all annual consents that are requested for longer than 12 weeks.
- The unit shall be of a high quality design, with robust construction and materials that the daily removal will not result in the rapid deterioration in appearance of the unit.
- The quality and appearance of the unit must be maintained at the standard approved in the original consent.
- The design brief will be kept under review and where appropriate will be subject change.
- The unit must meet with all of the consent conditions including removal after trading unless specifically permitted to remain
- The unit will be inspected by an officer from Birmingham City Council prior to consent being issued.
- Units and ancillary equipment and stock must be contained within the pitch.

Power

- City centre units will be powered by electricity through a plug and use process that will be chargeable.
- Diesel generators will be permissible outside the city centre only when no other power source is available. They shall be positioned so as to reduce the length of cabling required to an absolute minimum and to minimise disturbance to local residents or businesses from noise or fumes. Where required, silenced generators or acoustically insulated generators shall be sourced.

Advertising

- Advertising must only relate to goods offered for sale on that pitch.
- Third party advertisements are prohibited.
- It is not permitted to illuminate any advertisement on the outside of the stall kiosk without express consent of the Council.
- The use of 'A' boards or any other display board/structures are prohibited.

Barriers

- Barriers for safety purposes will only be allowed on a consent pitch where they have been specifically included within the unit's consent approval.

Hours of trading

Trading hours will be set on the basis of promoting the following purposes:

1. Preventing crime, disorder and antisocial behaviour.
2. Avoiding disturbance due to noise, smell or any other matter the Council considers appropriate.
3. Protecting public safety.
4. Preventing obstruction of the highway.
5. Having regard to location and operating hours of business activity.

Local Area Needs and Cumulative Impact

The Council will not normally grant consent for a street trading unit within 30 metres of another street trading unit.

The cumulative impact of street trading in an area will be considered.

The needs of a local area will be considered.

Street Trading in relation to football match days and other sporting events may allow trading to be more densely located than 30metre apart.

Selling the right goods

The sale of goods from street trading should complement those provided by nearby businesses/retail shops. The types of goods allowed to be sold will be considered on a pitch-by-pitch basis and specified on the consent. The quality of goods, local need for the goods and innovative approach will be considered.

Anyone wanting to have a stall must clearly state the nature of the proposed goods. The goods must not:

- Cause a nuisance, disturbance or annoyance to nearby properties/ people, including cooking smells, smoke, noise, litter and additional cleansing requirements for the Council.
- Cause or contribute to crime and disorder – including the selling of fake or counterfeit goods.
- Have a negative public health impact e.g. vaping products, locality of fast food units near schools, gyms etc.

Site assessment

In determining whether street trading in a particular area is appropriate the council will have regard to:

- Any effect on road safety, either arising from the siting of the pitch or from customers visiting or leaving.

- Any loss of amenity caused by noise, traffic, smell etc.
- Existing traffic orders e.g. waiting restrictions.
- Any potential obstruction of pedestrian, vehicular or disabled access.
- Any obstruction to the safe passage of pedestrians and wheelchair users.
- The safe access and egress of customers and staff from the pitch and immediate vicinity.
- Obstruction of entry to or sight lines to the entrance of retail premises or obstruction of display windows of retail premises.
- Public squares will not be appropriate for annual street trading consents longer than 12 weeks.

Other criteria

- The consent holder will at no time have the exclusive right to trade from the street or any part of it.
- Street trading can take place in the area outlined in the consent and on days and hours detailed in the consent.
- The consent holder may only trade in goods that are outlined on the consent.
- A copy of the consent shall be made immediately available upon request to an authorised officer of the Council or the police.
- Auction sales shall not be permitted as part of the consent.
- All street trading units will be equipped with safe and adequate lighting for the operation during the hours of darkness.
- Evidence of a commercial waste contract must be provided as part of a consent application and on request by a Council officer.

Failure to comply with any of these requirements may result in refusal to issue or renew consents or revocation of an existing consent.

9 Types of Street Trading Consent

Annual Street Trading

An annual consent can last up to 12 months. This consent enables the consent holder to trade up to seven days a week at a particular pitch within the City Council area. Annual street trading consents may run from the 1 April until 31 March the following year. Consents can be applied for part way through the year, but they will only run until 31 March.

Occasional Street Trading

This type of Occasional consent will last for one trading day for a particular pitch in Birmingham. No more than 30 consents will be issued per pitch, per financial year.

Mobile Street Trading

This is where a trader operates on various streets within the district rather than a fixed location e.g. ice cream van sellers, sandwich sellers.

Consents for mobile street trading will be granted on condition that they allow no more than 30 minutes trading in any 100m part of any one street on any one day and don't return within two hours. This reflects the peripatetic nature of their operation. Trading in one place for longer than this will require an occasional or annual street trading consent. The trader must clearly identify

the times and dates they wish to trade and in which locations. It is up to the consent holder to ensure that they comply with laws relating to the highway. The Council will generally restrict or amend a consent where the type of goods conflict with other goods for sale in the vicinity. Consents can run for up to 12 months.

10 Consent Application, Renewal and Surrender

Application or Renewal

Applicants must submit a new application or a renewal application for an annual, occasional or mobile consent at least eight weeks before the date they wish to start trading. This is to enable the Council to consult with partner agencies. **Failure to do so may result in a delay in being able to trade.**

Consent holders will be reminded that their consent is due to expire at least eight weeks before the expiry date. This is done to assist the trader, the Council accepts no liability if the trader does not receive the reminder. It is the trader's responsibility to ensure that they have the correct consent and to ensure that they submit their application prior to the expiry of their consent.

Surrendering a consent

Where the trader wishes to surrender a consent they must give the council 21 days written notice. Notice must be sent to marketstalls@birmingham.gov.uk

11 Special event and occasional market/fair street trading

Special Event Street Trading (two or more street trading units)

A 'special event' is where there are two or more street trading consents to be issued to the traders at that event, and where the event is organised by a single person/ organisation

The organiser of the special event that will apply to the Council requesting their event to be considered a 'special event' where street trading is taking part at the event. The event organiser will provide full details of each trader attending the event and inform each trader that they must apply to the Council for an occasional consent. Occasional consents will be issued by the Council to individual traders on their successful application to the Council. All applications must be made 8 weeks prior to the event taking place.

Where an application for a special event is made after street trading consents have already been issued for the same location, the street trading consents will be honoured and the special event organiser will be required to allow for the traders in the location and trading hours as set out in their consent.

Occasional market/fair (five or more street trading units)

The Birmingham Corporation (Consolidation) Act 1883 gives Birmingham City Council the market rights for any market within six and two thirds of a mile from St. Martins Church, Birmingham City Centre (Appendix 4) and or any other market run by Birmingham City Council. Therefore any market or fair including antique fairs, coin, stamp and postcard fairs, book fairs etc. where street trading from five or more units occurs held within this ring-fence will be considered as a market and will be subject to an application for and the granting of a licence issued by the Markets Service. Street trading consent is not required for licensed markets.

The organiser of the fair market or fair must apply to the Markets Service for a licence at least 8 weeks prior to the market or fair taking place.

12. Letting of pitches

Sub-letting pitches

Consent holders are not permitted to sub-let the pitch they are allocated under any circumstances.

Re-letting pitches

Street traders must make full use of their consent. The local authority will assess whether a consent holder has made a full use of their consent. Street traders shall notify the Council in circumstances where, and for whatever reason, they do not intend to make use of their consent, and notification should be made in advance. Consent holders must inform the Council of the date upon which they intend to resume trading. In circumstances where the date is not known, consent holders must give appropriate notice of their intention to resume trading. Where no prior notification has been received and in circumstances where the council is satisfied that the consent holder is not making full use of their consent it may re-let the street trading pitch to another trader. Multiple street trading consents may be granted to different applicants for the same site provided specific trading days/ periods are applied for.

13. Temporary relocation

When a pitch becomes temporarily unsuitable for any reason, the Council will seek to relocate consent holders to an alternative street trading pitch. The Council may identify suitable alternative pitches for the purpose of relocating the displaced street trader.

14. Fees and charges

Birmingham City Council set fees and charges for street trading. Fees and charges are reviewed annually.

Where a consent is surrendered or revoked, the Council will remit or refund, as they consider appropriate, the whole or part of any fee paid for a grant or renewal of the consent subtracting any administration costs.

Please visit <https://www.birmingham.gov.uk/street-trading> to find out what the current fees and charges are for street trading. Payment will be on receipt of the invoice for the consent. Methods of payment are described on the invoice.

Payment of fees for annual and mobile consents

Consent fees are published on Birmingham City Council's website. The annual fee is based on a daily fee six days worked per week, 50 weeks of the year. For annual consents the full fee will be paid in advance of the consent being issued. The consent will run from the 1 April until 31 March the following year. If an applicant makes an application during this period the consent for an will cease on 31 March in the financial year that it was applied for or the length of time the annual consent is requested provided it expires before 31 March in the same financial year.

Payment of fees for Occasional consents

Occasional fees are published on Birmingham City Council's website. For Occasional consents the applicant will need to pay prior to the consent being granted. The trader will incur the one day fee and then a lower daily fee for any additional days to be added to the same consent. The additional days must be at the same pitch. The additional days must also be within the same financial year as the first day of trading. To take advantage of the additional day fee rate full payment must be made in advance and in one transaction.

15. Applications

All applications will be considered on their individual merits taking into account all relevant matters.

Consents will not normally be granted where:

- Enforcement action is pending or has previously been undertaken against the applicant.
- The holder is currently in arrears with any charges.
- The location is unsuitable
- There is a potential risk to public safety
- The goods sold will not complement the surrounding retail offer.
- The activities are likely to cause a nuisance, disturbance or annoyance to neighbouring properties.
- The applicant is unsuitable.
- An applicant has failed to appropriately use previous consents.
- The unit is unsuitable.
- It may cause or contribute to crime and disorder.

This list is not exhaustive.

Who can apply?

To apply for consent a person must be:-

- An individual or business
- 17 years of age or over
- Legally entitled to live and work in the UK

Making an application

All applications must be made on the Council's prescribed application form. The application must be completed in full with all the required information before it will be considered. Applicants can apply online by visiting <https://www.birmingham.gov.uk/street-trading> If there are any queries relating to this then please call 0121 303 0208.

The application form must be submitted along with the following:

- Administrative fee of 10% of the yearly consent fee (non-refundable)
- Photographic identification (e.g. passport, photo card driving licence)
- A site plan of the proposed trading area or list of proposed streets
- Photographs of the trailer, stall, vehicle proposed for use
- The make and model of any generator to be used (if applicable)
- Gas certificate (if applicable)
- Public Liability Insurance certificate cover for £5,000,000
- Current MOT certificate (if using a vehicle)
- Current Motor insurance (if using a vehicle)
- Proof that the applicant and any assistants are entitled to work in the UK

Upon receipt of the complete application the Street Trading Team will consider the application in line with the key considerations outlined in section 7 of the policy and conduct a consultation as detailed in this section of the policy.

Once the application is complete and has been accepted, the council will either:

- Determine to grant the consent as applied for and attach standard conditions.
- Determine to grant the consent with specific conditions or a variation to the application.
- Determine to refuse the consent.

Where it has been determined to grant the consent before the consent is issued the following must be provided:

- the appropriate fee will be required to be paid
- evidence of a commercial waste contract

Where a consent is refused the council will notify the trader in writing detailing the reason for refusal.

Receipt of application and fees

An application will be treated as being received only when the relevant application and all the necessary supporting evidence has been received and the relevant non-refundable fee 10% administration fee has been paid. The application must be completed in full. Incomplete applications will be rejected. Failure to follow the application process may result in the consent being refused or delayed. Applicants are encouraged to submit their applications in plenty of time of the trading date to ensure that if there are any problems they can be rectified or discussed before they intend to trade.

Consultation

Before a street trading consent is granted the council may decide it is appropriate to consult with various people or groups. The Council will consider relevant representations.

The Council may consult the following people before issuing a consent:

- West Midlands Police
- West Midlands Fire Service
- Highways Division, Birmingham City Council
- Transportation Division Birmingham City Council

- Transport for West Midlands
- Planning Division Birmingham City Council
- City Centre Management, Birmingham City Council
- Business Improvement Districts
- Relevant services at Birmingham City Council e.g. trading standards, environmental health, waste management etc.
- Any other person or body deemed necessary.

Information obtained from these people/ bodies will be considered during the application process and will help determine whether a consent should be granted.

16. Insurance

The council will accept no liability for the street trading activities undertaken by the consent holder(s). Evidence of suitable public liability insurance (minimum value of £5 million) will be required from the applicant covering the period they wish to trade.

The insurance must be maintained throughout the period of the consent and the consent will be revoked should the insurance be cancelled or breached or its sum altered as to provide less than the minimum value.

If the insurance is due for renewal during the period covered by the consent, it is the responsibility of the consent holder to provide the council evidence that public liability insurance is continuous for the period of the consent.

17. Food units

All food businesses must be appropriately registered with their local authority. Certain low risk businesses are exempt from the hygiene rating scheme, so will not require a hygiene rating, however the Council may contact Environmental Health to ensure adequate compliance with food law. Other low risk food businesses (the decision of what is classed as a low risk business will be determined by the Environmental Health Team), may be considered safe to trade whilst awaiting inspection by their local authority or in other circumstances. All other traders that sell or provide food must have a national food hygiene rating of a 4 or 5. Where a rating drops below a 4 or where there is significant food hygiene or food safety breach whilst a consent is in place, consent may be suspended or revoked. Applicants and consent holders should notify Birmingham City Council of any changes to their national food hygiene rating.

18. Removal of waste

Traders shall ensure that they comply with the law in relation to the disposal of waste. All businesses must put in formal arrangements for the collection of waste created by their activities. It is an offence to dispose of trade waste in domestic refuse bins.

19. Enforcement Actions

Where the conditions of the consent are breached and it is deemed appropriate, necessary and proportionate for enforcement action to be taken then the disciplinary process attached at Appendix 5 will apply. The process is:

FIRST OFFENCE

The Consent Holder will be verbally warned on site by an “Authorised Officer” and a formal verbal warning will be issued in writing and placed on the traders file.

SECOND OFFENCE

Should the Consent Holder commit a further breach of the conditions within **six months** of the second offence, a formal written warning will be issued and placed on the traders file.

THIRD OFFENCE

Should a Consent Holder commit a further breach within **twelve months** of the third offence, the Consent Holder will be asked for a written submission relating to the breaches. A senior authorised officer will review the consent with a potential outcome being revocation.

In addition, should a consent holder commit a significant breach of the conditions so as to be considered as serious misconduct or such as to impact significantly on the following:

- **Public Safety**
- **Prevention of crime and disorder**
- **Prevention of public nuisance**

Then immediate suspension of the consent will occur with a view to a review of the consent by a senior authorised officer with a potential outcome being revocation. Written submissions for both the Street Trading Team and the consent holder will be sought prior to a decision being made.

Where circumstances change that leads the Street Trading Team to consider that a consent should be revoked they will write to the trader to inform them of this proposed course of action and the reasons why. They will give 14 days for the trader to provide written evidence why this revocation should not occur. A senior authorised officer will then consider all evidence and make the decision whether to revoke the consent.

Where a consent is revoked the Council will advise the applicant verbally and confirm the reasons for this in writing within 10 working days.

20. Appeal against revocation

There is no statutory right of appeal against an officer’s decision to revoke a consent however an appeal may be made to the Head of Licensing within 5 working days of the written revocation. The Head of Licensing and two other senior authorised officers will consider the appeal. Details on how to appeal will be given to applicants when a decision to revoke the consent has been made.

21. Refusing applications

The council may refuse to grant a consent. Where a consent is refused the Council will advise

the applicant in writing and notify them of the reason for the refusal. There is no right of appeal against an officer's decision to refuse a consent.

22. Conditions, complaints and offence

General conditions will be attached to every consent. These are found at Appendix 6. Additional conditions may also be attached relating to the type of the consent given. Failure to comply with conditions may result in enforcement action, revocation of your consent, and refusal to grant further consents on application.

Complaints

Complaints will be fully investigated in accordance with the Council's Complaints Policy and consent holders will be expected to liaise with the Council to resolve them. Substantiated complaints may result in a consent being revoked and refusal to grant further consents on application.

Offences

Decisions regarding enforcement action will be made in accordance with the Council's enforcement policy.

A person commits an offence if they:

- a) Engage in street trading in a prohibited street.
- b) Engage in street trading in a consent street without first obtaining authorisation from the council.

Any person guilty of such an offence will be liable, on conviction at a magistrates' court to a fine of up to £1,000.

23. Definitions

Roundsman

A roundsman is a person who followed the round of his/her customers to take orders and deliver the pre-ordered goods of these customers.

News vendor

News vendor is a reference to trading where:

- a) The only articles sold or exposed or offered for sale are newspapers or periodicals; and
- b) They are sold or exposed or offered for sale without a stall or receptacle for them or with a stall or receptacle for them which does not:
 - (i) exceed one metre in length or width or two metres in height;
 - (ii) occupy a ground area exceeding 0.25 square metres; or
 - (iii) stand on the carriageway of a street.

Prohibited Street – Metro Routes**LINE 1 (Wolverhampton to St Paul's Tramstop)**

None

Birmingham City Centre Extension (St Paul's Tramstop to Birmingham Grand Central Tramstop)

Colmore Circus Queensway B4 (portion of street west of Snowhill Train Station)

Bull Street B4 (Colmore Circus Queensway junction to Corporation Street junction)

Corporation Street B4 (Bull Street junction to Stephenson Street junction)

Stephenson Street B2 (Corporation Street junction to 21 Stephenson Street)

Westside extension Centenary Square Extension (Birmingham Grand Central Tramstop to Centenary Square Tramstop)

Stephenson Street B2 (21 Stephenson Street to Pinfold Street)

Pinfold Street B2 (Stephenson Street junction to New Street junction)

New Street B2 (Pinfold Street junction to Paradise Street)

Paradise Street B1 (to Paradise Circus)

Paradise Circus B1 (from Paradise Street to Broad Street)

Westside extension (Edgbaston Extension Centenary Square Tramstop to terminus at 54 Hagley Road)

Broad Street B1 (to Hagley Road)

Hagley Road B16 (A456) (to 115 Hagley Road)

Eastside extension

Bull Street B4 (Corporation Street junction to Dale End junction)

Dale End B4 (Carrs Lane junction to Albert Street junction)

New Meeting Street B4

Moor Street Queensway (Albert Street junction to Carrs Lane junction)

Park Street (Fazeley Street junction to Masshouse Lane junction)

Masshouse Lane (Park Lane junction to 22 Masshouse Lane)

Albert Street B5

Fazeley Street B5 (Queensway junction to Park Street junction)

Fazeley Street B5 (41 Fazeley Street to Benacre Drive junction)

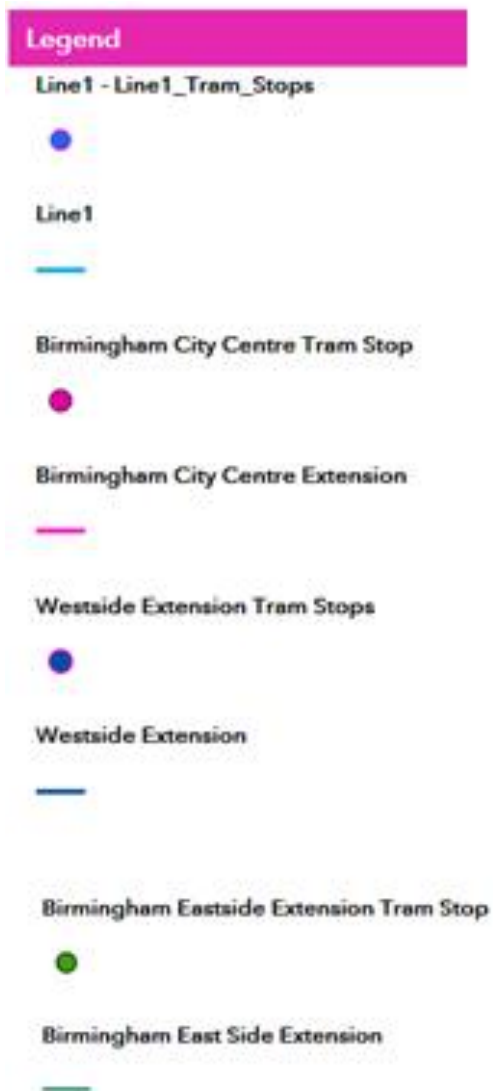
New Bartholomew Street B5 (Fazeley Street junction to 36 New Bartholomew Street)

New Canal Street B5 (Banbury Street junction to Meriden Street)

Meriden Street B5 (to Digbeth B4100 junction)

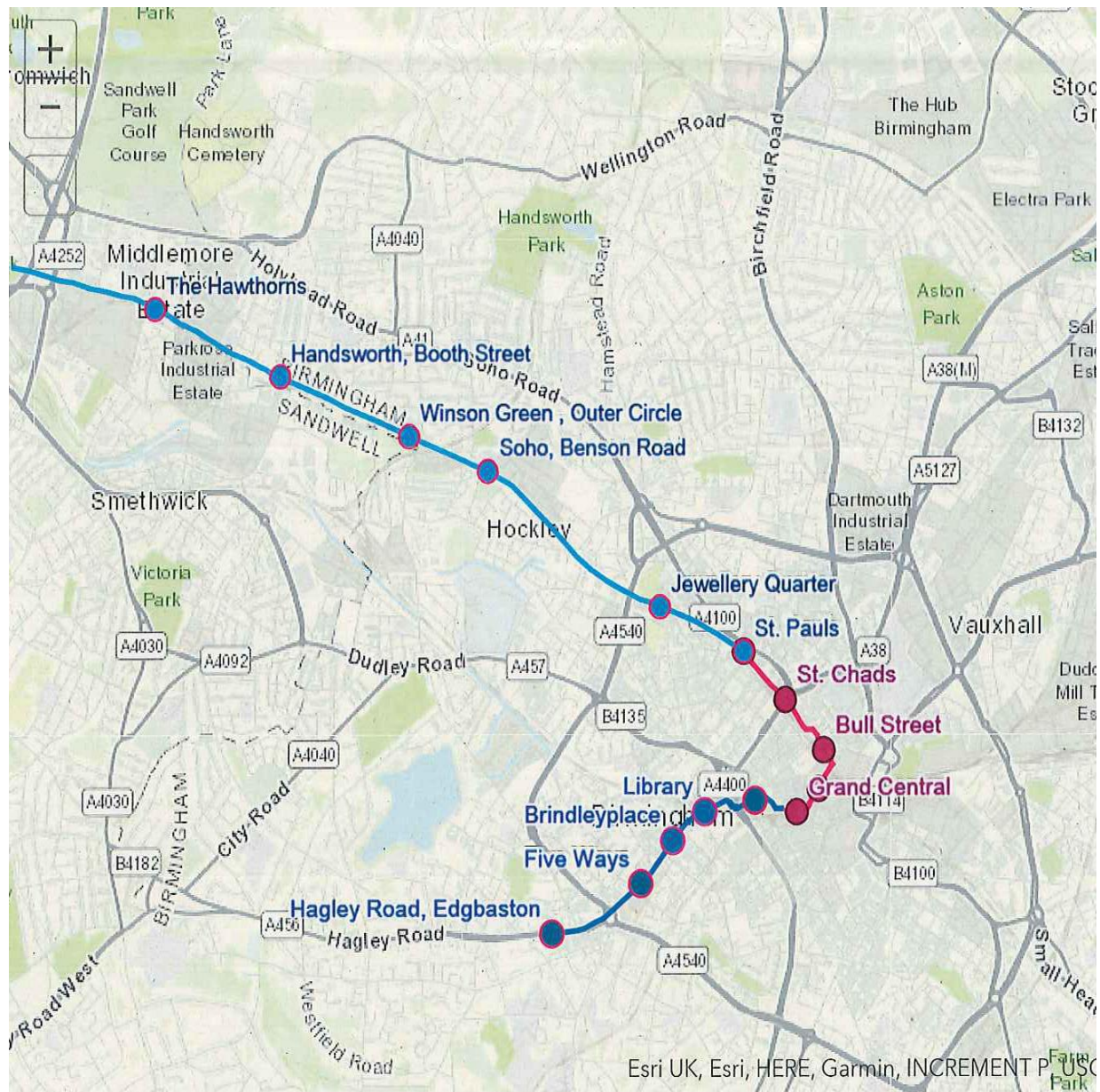
Digbeth B4100 B5 (Alison Street junction to Clyde Street junction)

MAPS FOR ILLUSTRATIVE PURPOSES ONLY

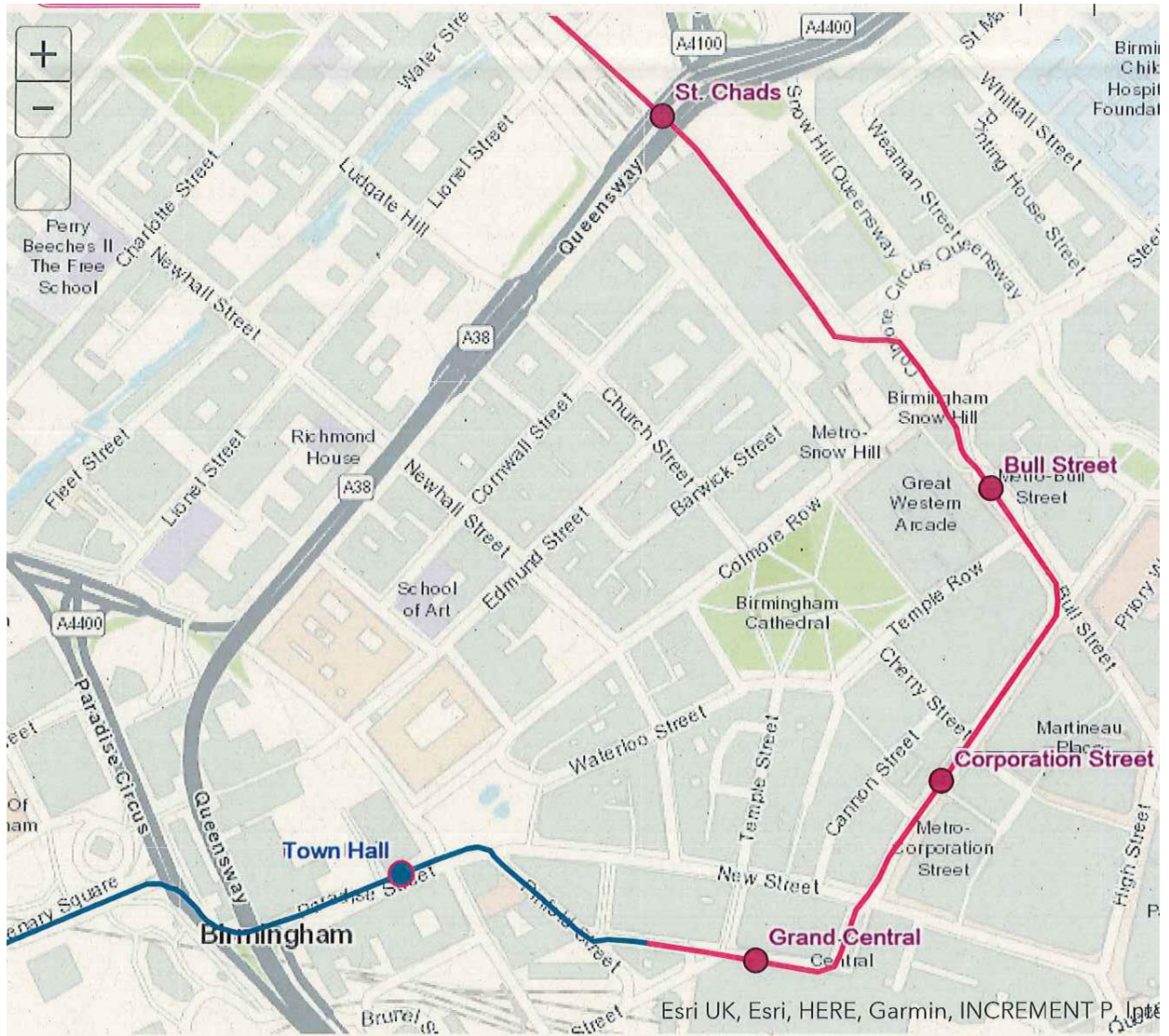


Line 1, Westside Extension (Centenary Square Extension and Edgbaston Extension)

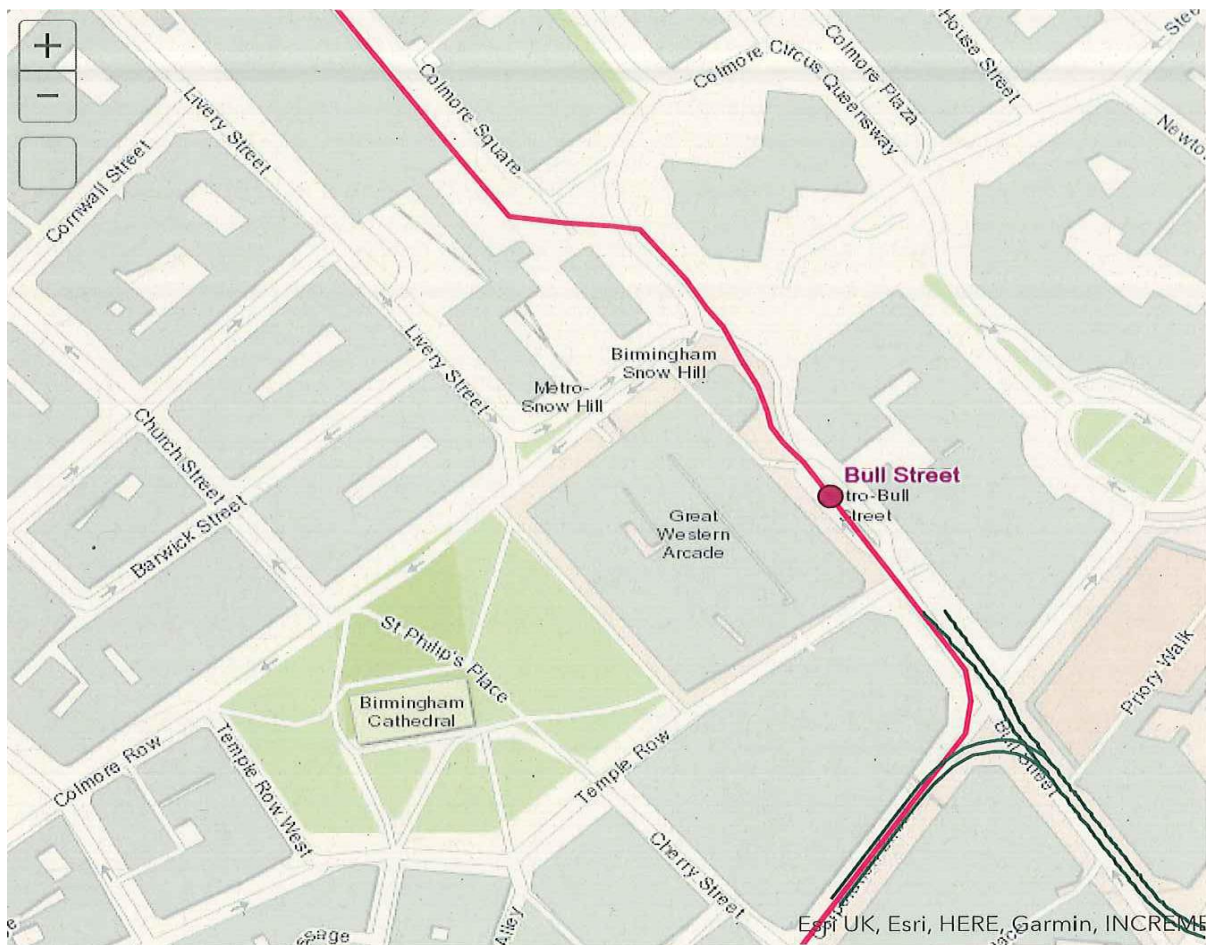
Overview



Centenary Square Extension (St. Chads to Grand Central)



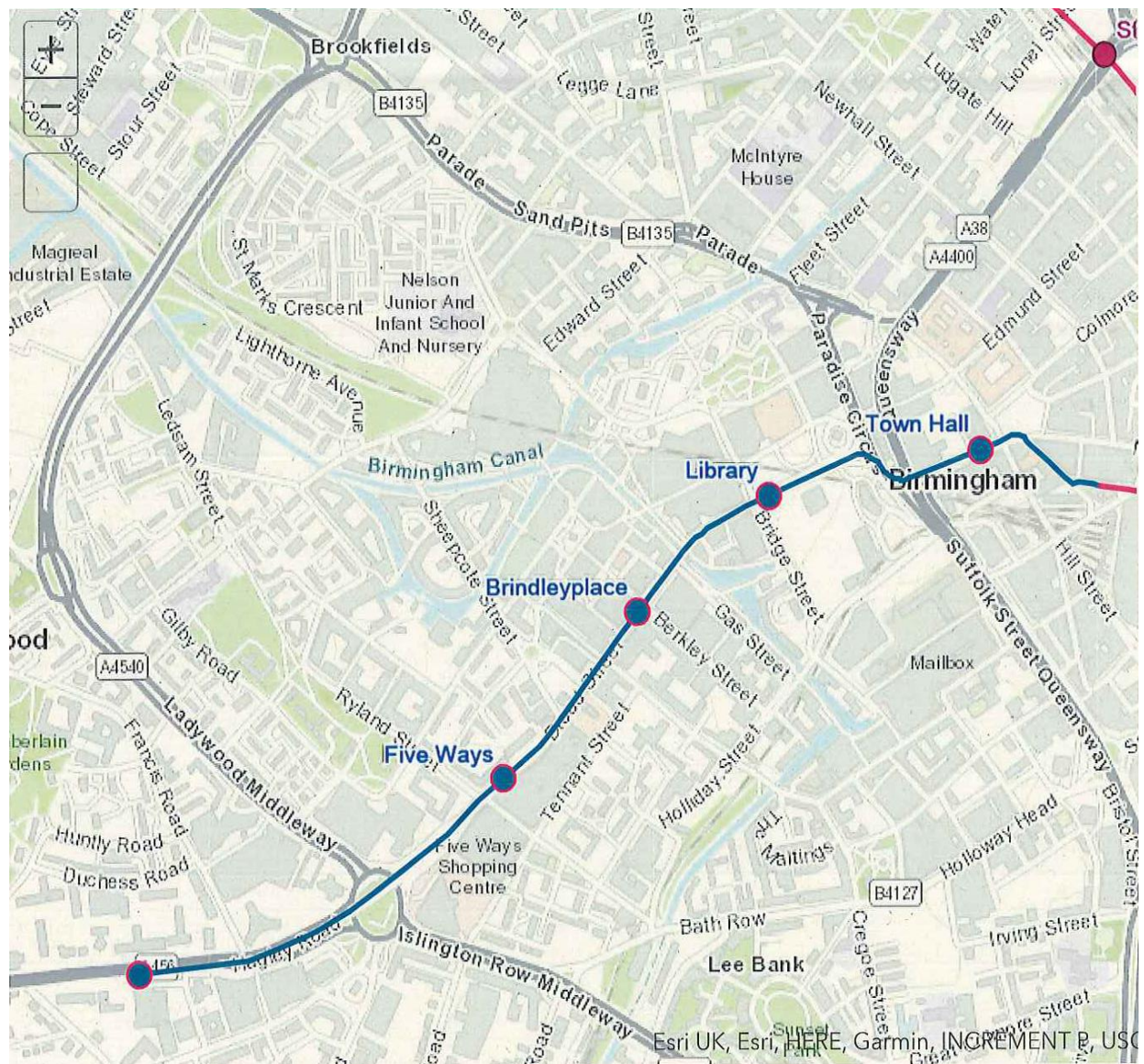
Centenary Square Extension (Colmore Square to Corporation Street)



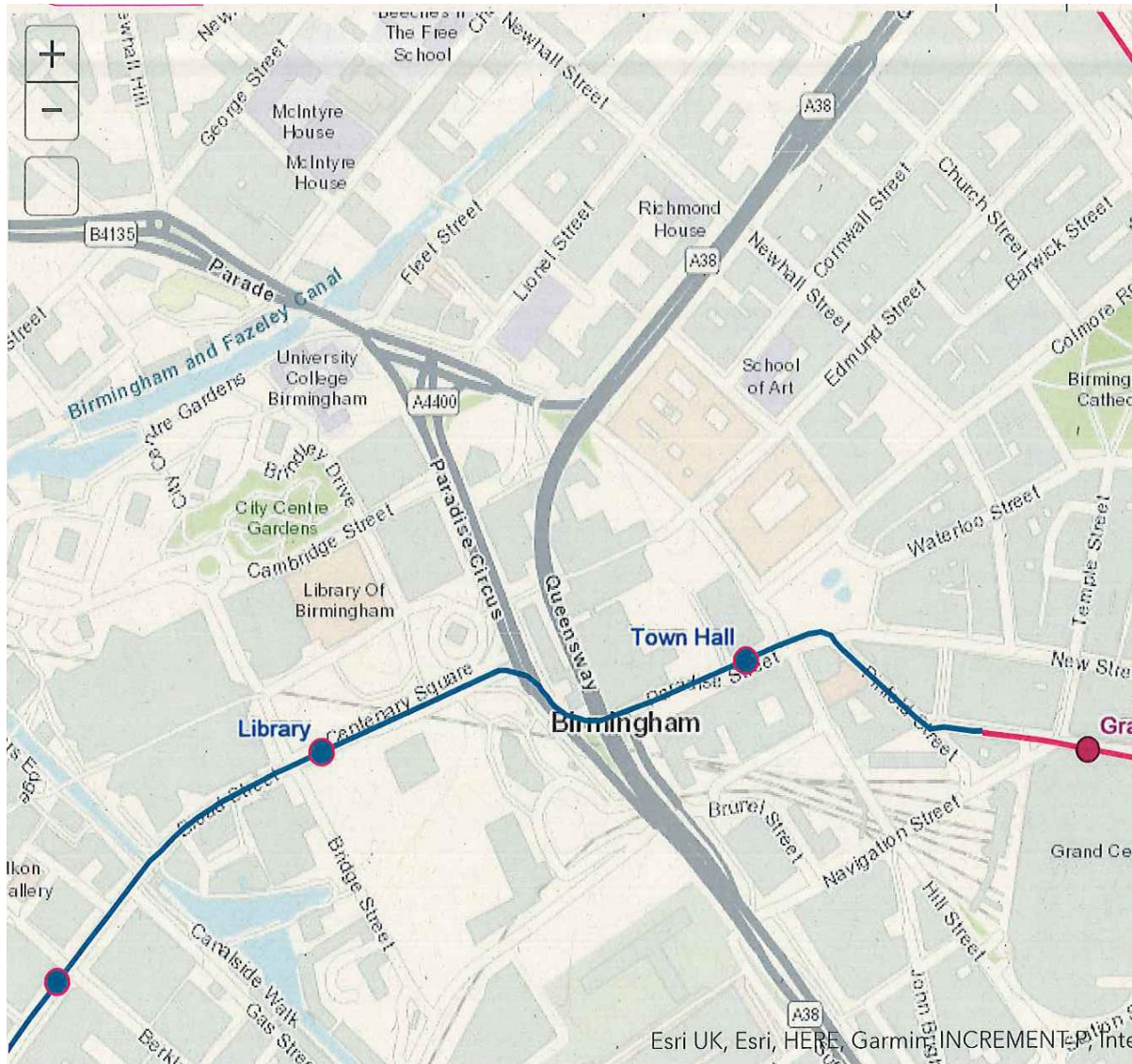
Centenary Square Extension (Corporation Street to Stephenson Street)



Westside Extension (Edgbaston Extension) Overview



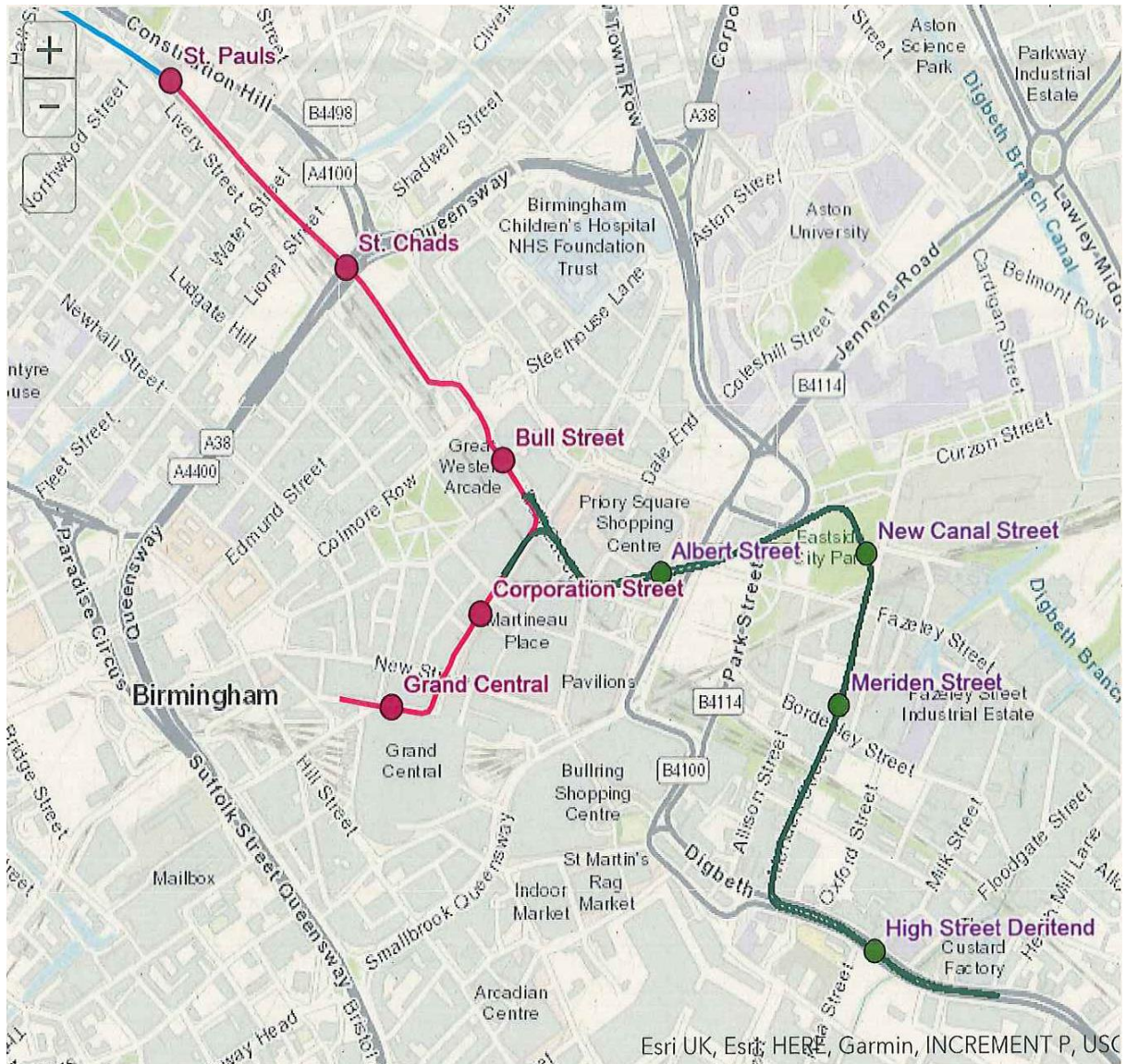
Edgbaston Extension (Pinford Street to Broad Street)



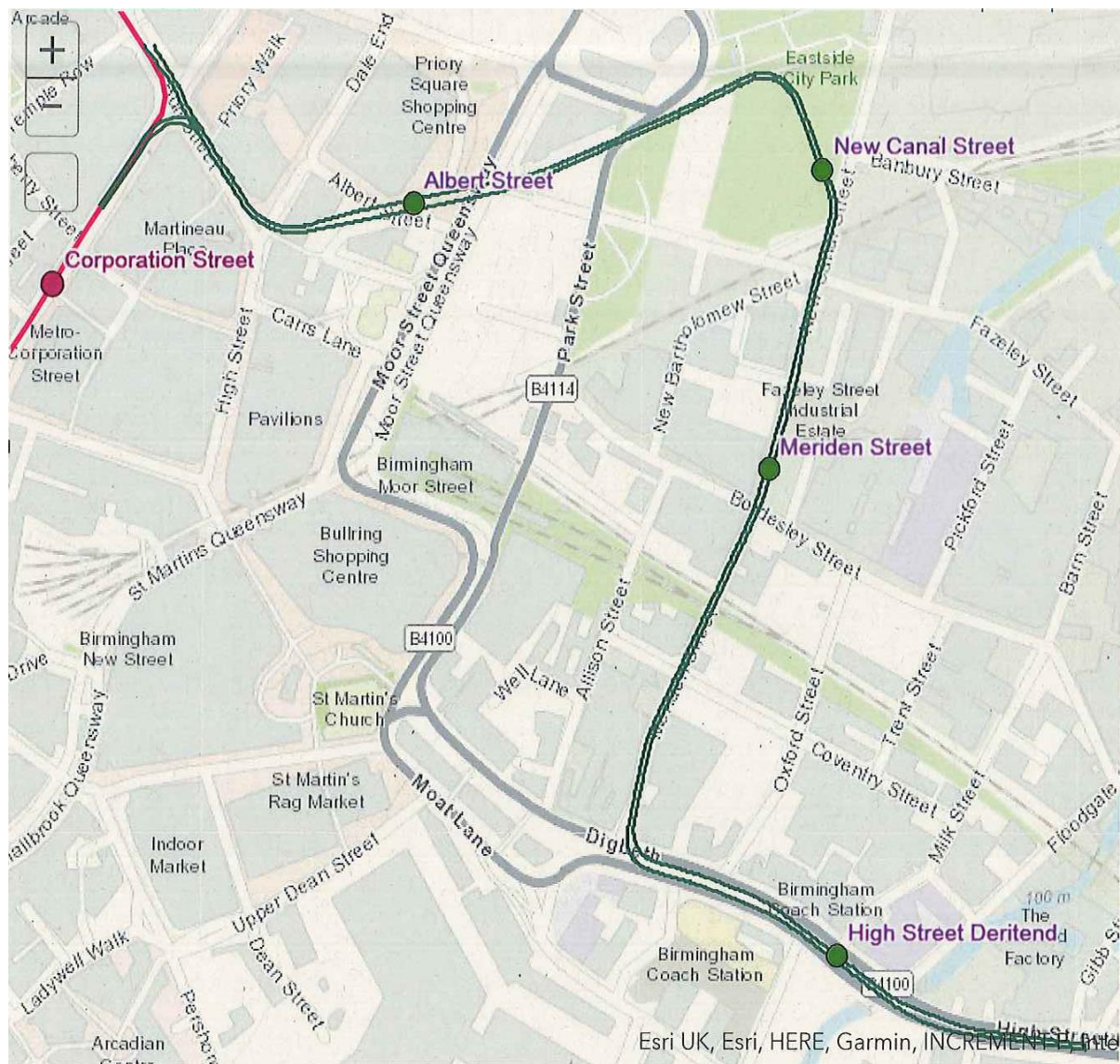
Edgbaston Extension (Broad Street to Hagley Road)



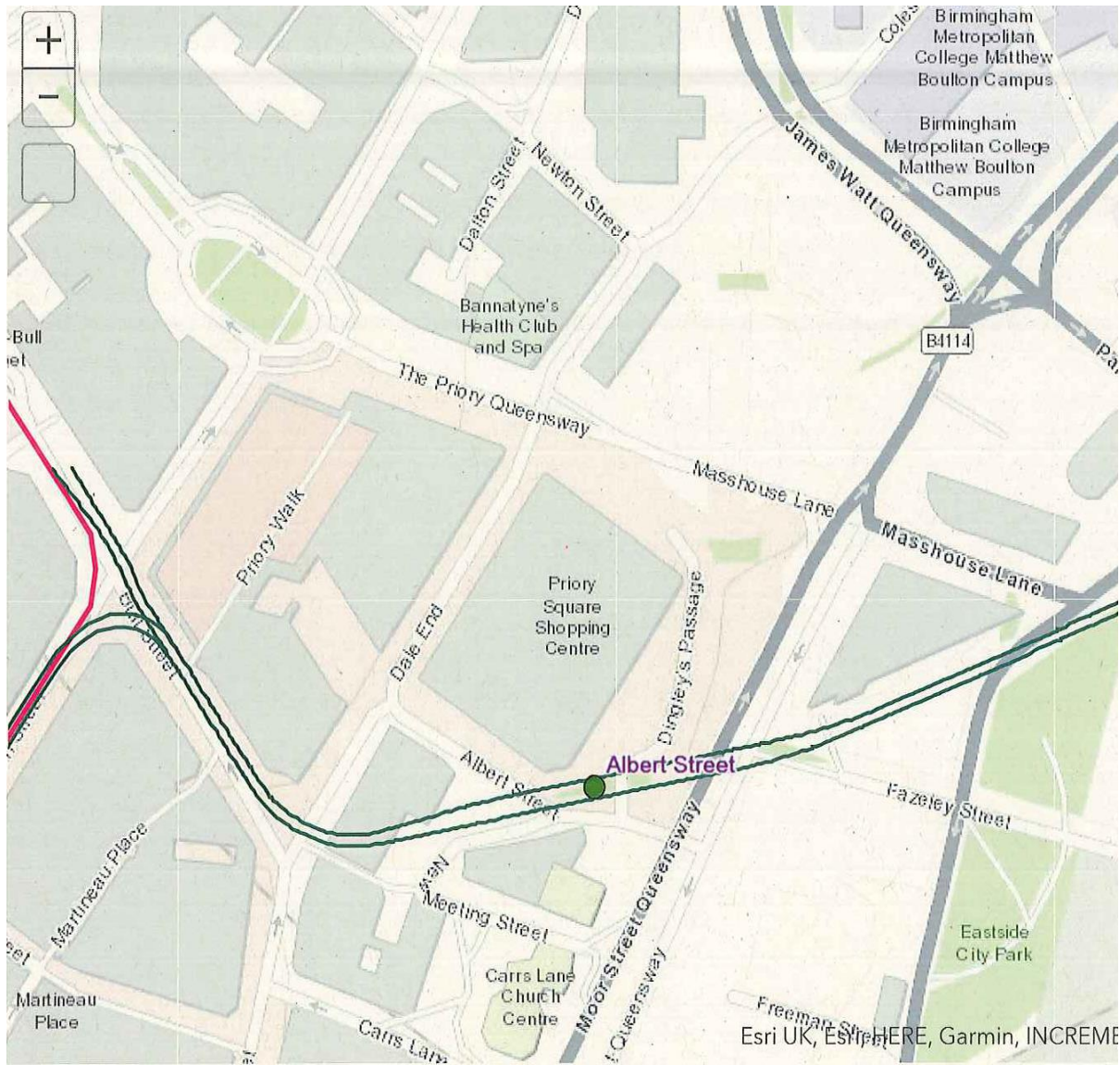
Westside Centenary Square Extension and Eastside Extension Overview



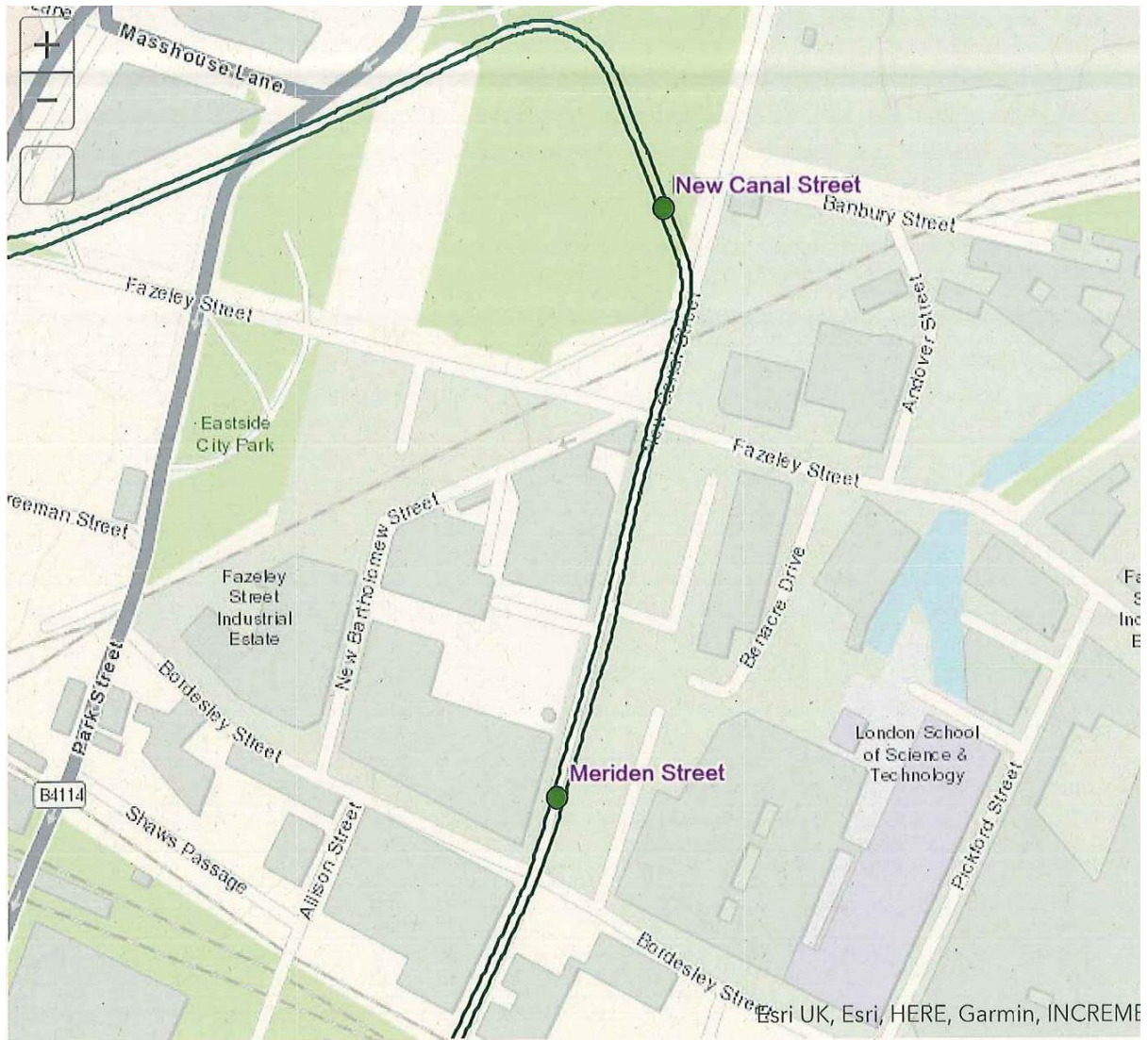
Eastside Extension Overview



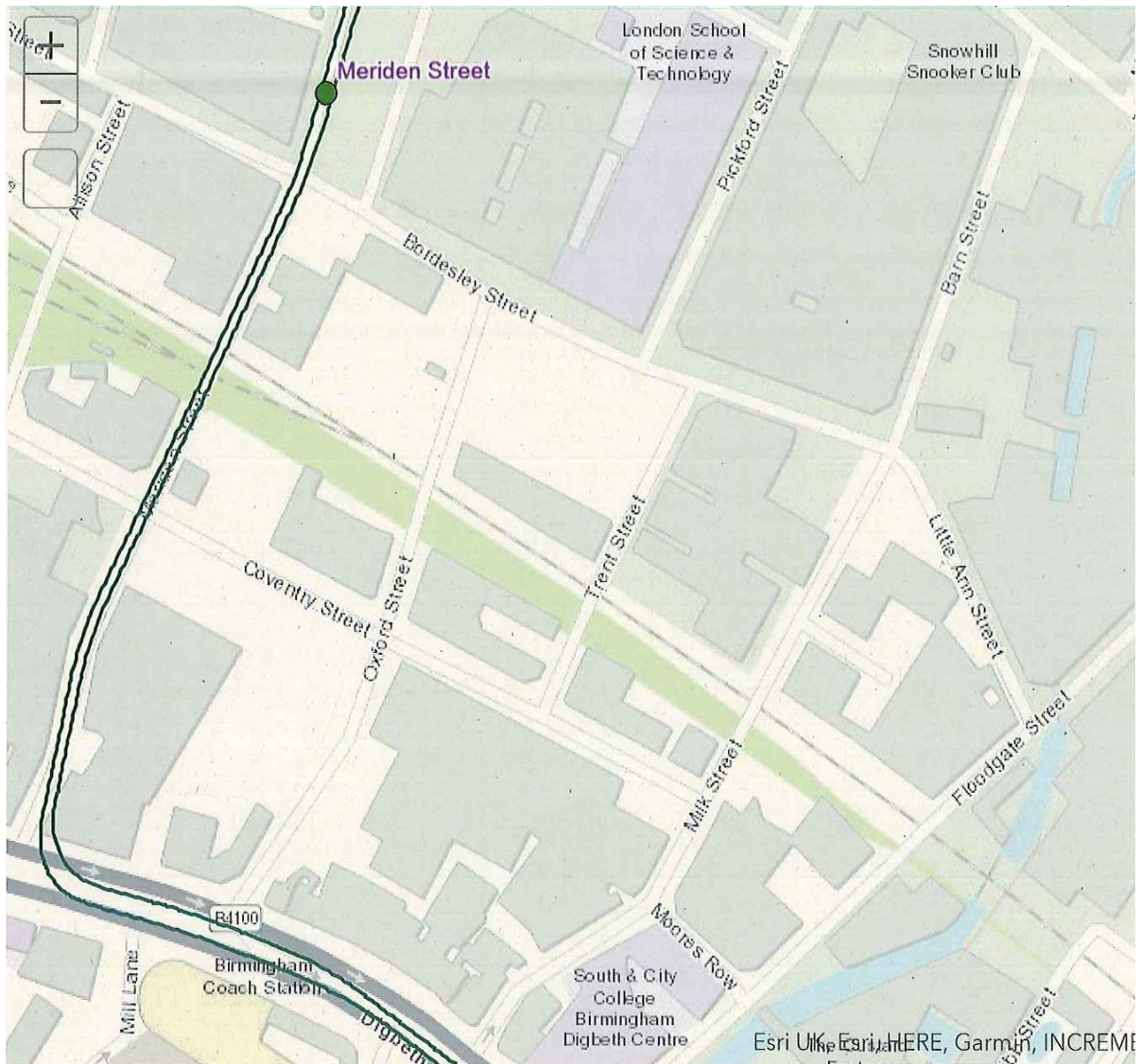
Eastside Extension (Bull Street to Fazeley Street and Masshouse Lane)



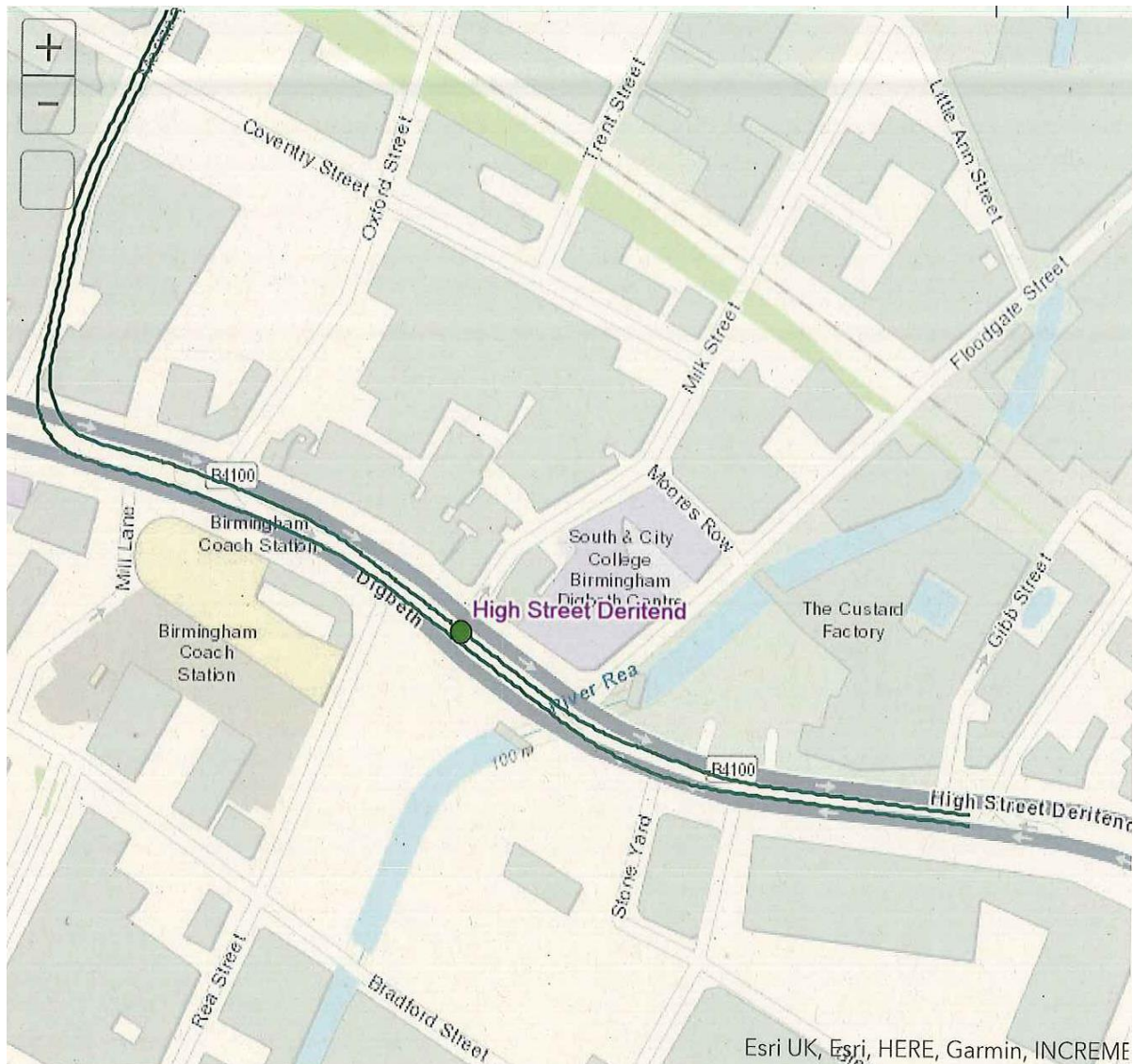
Eastside Extension (City Park to Meriden Street)



Eastside Extension (Meriden Street to Digbeth)



Eastside Extension (Digbeth to High Street, Deritend)



Appendix 3

Street Trading Design Brief for Units**Unit proportions**

The external height of the trailer must not exceed 2.5 metres

External size of the units must not exceed 2.2 metres x 4.8 metres

Unit design

Units must be of a high quality, bespoke design that complements and enhances its surrounding environment. The proposed unit design must be agreed by Birmingham City Council.

(It is suggested traders do not purchase a unit until the proposed design has been agreed by Birmingham City Council).

Colour

The colour of the unit must be approved by Birmingham City Council. Consideration will be given to the proposed location of the unit and how the colour will help the unit enhance its surroundings.

Signage

Signage must be painted (or attached via vinyl sticker) onto the trailer / stall. No other signage can be utilised by traders (such as hanging, floor sited A boards, etc)

Signage must be in one colour

Signage must be ARIAL font no larger than 30 cm in height.

Graphics or logos must be no more than 2 colours of which one is the same as the signage colour and not cover more than 1/3rd of an elevation. Graphics must directly relate to the business and/or products being sold and not contain 3rd party advertising.

No more than one sign (encompassing text and graphic or logo) should be sited on a single elevation.

Food stalls menu boards must be sited internally or on shutters.

All signage designs must be approved by the Local Planning Authority as part of the street trading consent application process.

Siting of stock & trading area

Goods cannot be displayed outside the areas of the unit e.g. via build-outs, externally hung on the unit, sited on the public realm around the unit, or by any other means. All produce / stock must be located and displayed within the unit.

Goods cannot be displayed directly on the ground and must be presented from a product specific display unit (e.g. tiered shelving for flowers)

The unit must have at least 3 opening or glazed elevations.

Subject to above, signage can be used to help enhance blank elevations.

Canopies

No goods can be hung or displayed on or from the canopy.

Canopies should only be located on the serving or opening size of the unit, for shading purposes only.

Canopies should not project any more than 1m from the unit.

The colour of canopies must complement or be the same, as the unit colour. The design and appearance of the canopy will be approved by BCC as part of the wider unit design.

Waste

Commercial waste must be stored within the stall / trailer.

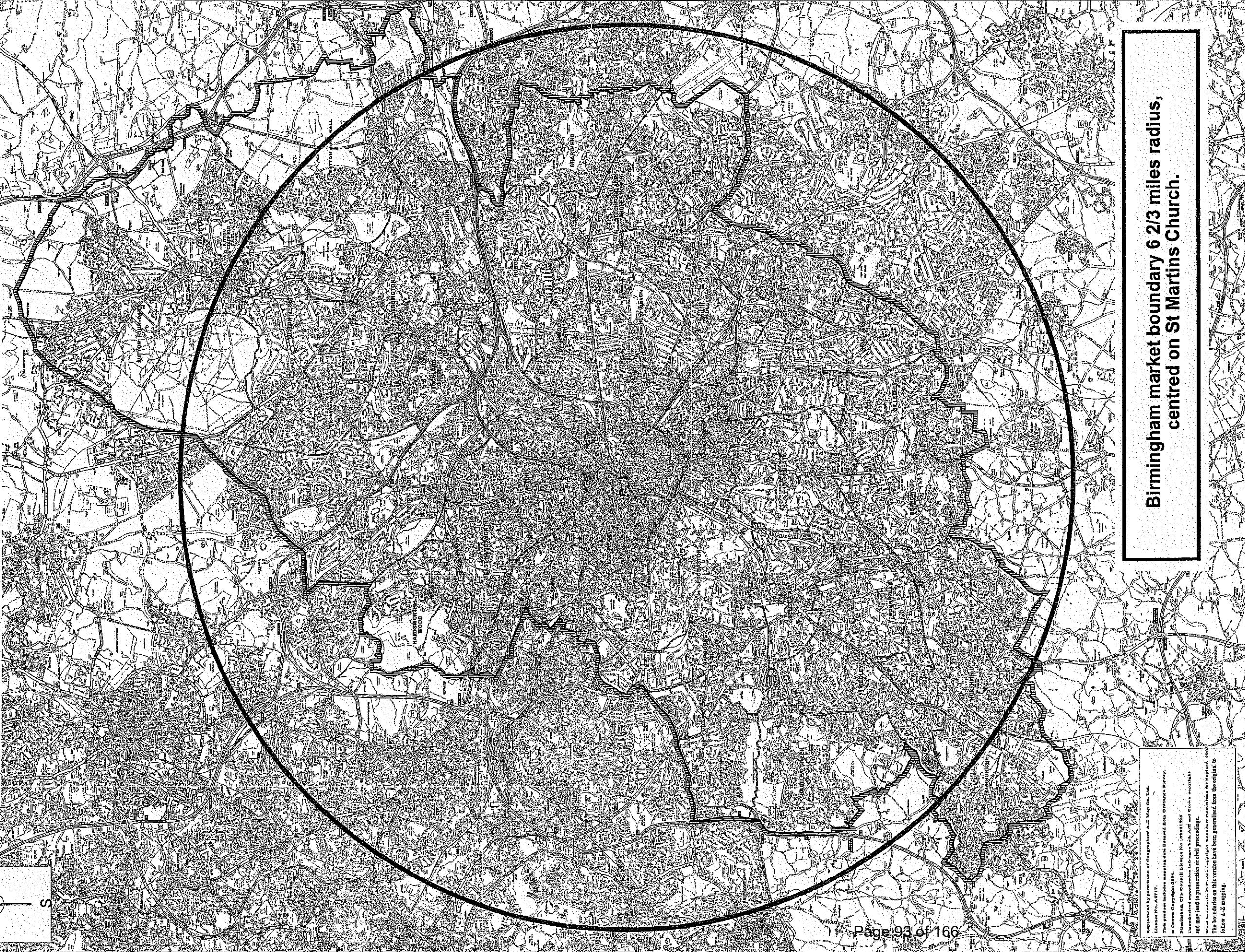
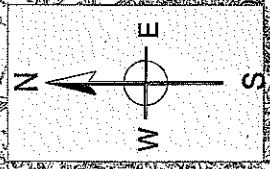
Food stalls must have a public waste bin sited next to the stall. This must be black and managed by the trader.

Lighting

The unit must have no external lighting.

Drawing : 6856

BIRMINGHAM CITY MARKETS



Birmingham market boundary 6 2/3 miles radius,
centred on St Martins Church.

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BIRMINGHAM CITY COUNCIL
MARKETS SERVICE

STREET TRADING
DISCIPLINARY PROCESS

All Street Trading Consent Holders must comply with the Conditions attached to their Street Trading Consent.

Should a Consent Holder breach the conditions, the following process will be applied.

FIRST OFFENCE

The Consent Holder will be verbally warned on site by an “Authorised Officer” and a formal verbal warning will be issued in writing and placed on the traders file.

SECOND OFFENCE

Should the Consent Holder commit a further breach of the conditions within **six months** of the second offence, a formal written warning will be issued and placed on the traders file.

THIRD OFFENCE

Should a Consent Holder commit a further breach within **twelve months** of the third offence, the Consent Holder will be asked for a written submission relating to the breaches. A senior authorised officer will review the consent with a potential outcome being revocation.

In addition, should a consent holder commit a significant breach of the conditions so as to be considered as serious misconduct or such as to impact significantly on the following:

- **Public Safety**
- **Prevention of crime and disorder**
- **Prevention of public nuisance**

Then immediate suspension of the consent will occur with a view to a review of the consent by a senior authorised officer with a potential outcome being revocation. Written submissions for both the Street Trading Team and the consent holder will be sought prior to a decision being made.

Where circumstances change that leads the Street Trading Team to consider that a consent should be revoked they will write to the trader to inform them of this proposed course of action and the reasons why. They will give 14 days for the trader to provide written evidence why this revocation should not occur. A senior

authorised officer will then consider all evidence and make the decision whether to revoke the consent.

Where a consent is revoked the Council will advise the applicant verbally and confirm the reasons for this in writing within 10 working days.

Appeal against revocation

There is no statutory right of appeal against an officer's decision to revoke a consent however an appeal may be made to the Head of Licensing within 5 working days of the written revocation. The Head of Licensing and two other senior authorised officers will consider the appeal. Details on how to appeal will be given to applicants when a decision to revoke the consent has been made.

BIRMINGHAM CITY COUNCIL
MARKETS SERVICE

STREET TRADING CONDITIONS

These Conditions are intended to assist in the operational effectiveness of Street Trading, to ensure equity in relationship to the traders and to support the City Council's intention to provide a high quality service.

All Street Trading Consent Holders shall comply with these Conditions. Where applicable, employees shall also comply with these Conditions.

In these conditions, the following terms have the meaning hereby assigned:

'Council'	means Birmingham City Council
'Division'	means the Council's Regulation and Enforcement Division
Street Trading	the selling or exposing or offering for sale any article (including a living thing) in a street
Street	a) any road, footway, beach or other area to which the public have access without payment; and b) a service area as defined in section 329 of the Highways Act 1980
'Consent Holder'	means a Street Trader who has been granted a Consent by the Department to trade on the street
'Consent'	means a Consent granted by the Department in respect of street trading
'Employee'	means a person working for a Street Trading Consent Holder
'Authorised Officer'	an Officer employed by Birmingham City Council and authorised by the Head of Licensing in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982
'Senior Officer'	means the an Operational Manager within the Division
'Serious Misconduct'	Includes, but is not limited to any of the following: Sexist, racist, foul or abusive language Acts of dishonesty Acts of indecency Any act causing or likely to be dangerous or cause personal injury to a person

General Conditions

Consent Details

1. A copy of the consent must be displayed prominently on the unit at the street trading site and the trader or his employees shall produce it whenever required by any Police Officer, Market Officer or other person authorised by the Council.
2. The consent holder shall not trade outside the time and days permitted by the consent and trading shall only take place from the agreed specified trading unit.
3. The consent holder shall not trade within the consent area other than at the location permitted by the consent.
4. The consent holder shall trade in compliance with the consent and must not digress e.g. affixing barriers or advertising etc. that has not been specified in the consent.
5. The consent holder will comply with all statutory orders, regulations or bye laws made and for the time being in force.
6. The consent holder and their employees shall comply with all statutory requirements and statutory instruments including without limitation the Control of Substances Hazardous to Health Regulations 2002 and the Health and Safety at Work Act 1974 in relation to the sale of goods or provision of services from their unit.
7. The goods, articles or things, the sale of which is authorised by this consent, are strictly limited to those specified, unless written approval to amend has been given by Birmingham City Council.
8. The trading unit must be of the size and design approved by the Council and/or specified in the consent. Written approval to change the specified sales unit must be obtained from Birmingham City Council.
9. The consent holder shall not at any time lend, or purport to transfer or assign this licence to, or permit it to be used, by any other person except that he/she may employ any other approved person to assist him/her in trading without a further consent being required. Birmingham City Council must be notified of all employees/persons authorised to assist prior to them working.
10. All consent holders and their employees shall register their names and current addresses with the Division in accordance with the requirements outlined on the Division's application form, and give written notice to the Division immediately of any changes in such details.
11. All consent holders shall ensure that all their employees comply fully with the Conditions as disciplinary action may be taken against any consent holder or their employees for any breaches of the Conditions. Consent holders are under a duty to bring the Conditions to the attention of their employees.
12. The consent holder may employ another person to 'assist' with trading but shall be expected to be in attendance at the site regularly in order to remain in control of trading for the majority of trading hours.

13. The consent may be revoked by the council at any time for non-compliance with conditions or any other reasonable cause, or surrendered by the consent holder at any time.
14. Nothing in these conditions shall excuse the consent holder from any legal duty or liability and the consent holder shall indemnify the council in respect of all claims, actions or demands arising from the consent except where due to the Council's own negligence.
15. The consent holder shall at all times maintain a valid third party public liability insurance policy to the value of £5,000,000 and shall produce a valid certificate of insurance at any time.
16. The consent holder and any employees must notify the Council in writing within 48 hours of any change of address, any changes, police investigations and/or convictions or cautions which arise during the terms of the consent. The Council reserves the right to suspend a consent with immediate effect pending a review of the consent by the Head of Licensing or another senior authorised officer should any criminal matter serious enough that there are concerns for public safety.
17. The fees for the consent must be paid on or before the due date for payment as specified by the Council.
18. Should the trader wish to surrender their consent, they must do so formally in writing, returning their consent. Failure to do so will result in consent fees remaining payable.
19. Notwithstanding the details of a consent, when a pitch becomes temporarily unsuitable for any reason, the consent holder will agree to relocate to an alternative street trading pitch for the period of the temporary restriction.

General Conduct

20. The consent holder must not sell or leave any articles/goods outside of the agreed trading dimensions of the trading unit. No goods shall be hung from canopies or be placed on the ground.
21. The consent holder shall not trade in such a way that is likely to cause obstruction of any part of any street or public place.
22. The consent holder shall not trade in such a way that is likely to cause an injury to any person using the street or place.
23. The consent holder shall not trade in such a way that is likely to cause damage to any property in the street or place.
24. The consent holder shall not trade in such a way that is likely to cause a nuisance or annoyance to persons using the street or public place, or to occupiers of premises in the vicinity.
25. The consent holder shall be clean in his person and shall not exhibit insobriety, incivility, improper language or other misconduct.

26. Serious misconduct will result in an immediate suspension of the consent to enable a review to take place by the Head of Licensing or other senior authorised officer potentially leading to revocation.
27. If requested to move for any reason the consent holder shall comply the reasonable instructions of any authorised Birmingham City Council Officer or West Midlands Police Officer.
28. The consent holder must ensure that all consent fees are paid in advance by one of the methods stipulated by the Council on the invoice.
29. The consent holder agrees to abide by the disciplinary procedure as approved by the Division.
30. Where more than one mobile ice cream trader has been granted a mobile street trading consent to trade in the same street, then any such ice cream trader on entering a street where an ice cream trader is already trading shall immediately leave that street without trading in it.

Protection of Young People

31. Street trading will not normally be authorised within 50 metres of any entrance or exit to a school or nursery. (The distance from the entrance to a school or nursery may be extended where issues of public safety are raised during the consultation of the application).
32. No child aged 16 or below shall be engaged in or employed to undertake any street trading under a consent issued by the Council.

Noise Nuisance

33. The consent holder shall not use any device for the reproduction or amplification of sound; or any device or instrument to attract vendors to the stall/vehicle/trailer by sound. Ice cream vans may use a chime only in accordance with the Code of Practice on Noise from Ice Cream Van Chimes etc. 1982.

Vehicle/Unit Compliance

34. Any vehicle/unit/trailer used by the consent holder in the course of trading shall be constructed and maintained to the satisfaction of all reasonable requirements of the Council and as stipulated by the consent and design brief. A high standard of presentation and appearance will be expected to be maintained.
35. Any replacement or new units must be approved by the Council prior to being purchased or its building being commissioned.
36. The unit will comply in all respects with any legal requirements relating to the activity proposed
37. The unit shall be of a high quality design, with robust construction and materials that the daily removal will not result in the rapid deterioration in appearance of the unit.

38. The quality and appearance of the unit must be maintained at the standard approved in the original consent.
39. The unit will be of a mobile type and must be removed daily after trading has ceased unless authorised by the Division. It must not cause damage to the street or endanger persons using the street.

Health & Safety

40. The use and storage of LPG will comply with the requirements of the Health and Safety at Work etc. Act 1974 and any Fire Authority requirements.
41. Where any LPG or electricity is used then suitable fire extinguishers must be provided and maintained in a satisfactory condition.
42. The consent holder will not be permitted to erect additional awnings, tents or other structures at the site without permission.
43. The consent holder shall be responsible for any damage to the highway resulting from the trading activity.
44. The consent holder shall not keep or store explosive materials and inflammable liquids on their trading units, other than gas cylinders in compliance with current legislation.
45. The consent holder shall comply with all Traffic Regulation Orders and ensure that vehicles used in respect of their stalls are moved from the trading site immediately they are unloaded or at the request of any authorised Officer.

Advertisements / Signage

46. Advertisements must not be placed outside the perimeter of the trading site or affixed to any street furniture - e.g. lamp posts, road signs, fences, bollards.
47. Advertising should only relate to goods offered for sale on that pitch.
48. Illumination of advertisements on the outside of the unit not permitted.
49. The use of 'A' boards and any other display board/structures are prohibited.

Waste Management

50. The consent holders shall provide and maintain adequate refuse receptacles for litter and shall remove all litter in the trading vicinity; suitable arrangements must be in place for the disposal of commercial waste.
51. The consent holder must prevent the deposit in any street of solid or liquid refuse and shall not discharge any water (except as may be necessary for cleansing) to the street surface or to the surface water drains. The surrounding area shall be kept clean and tidy including the necessary washing of street surfaces.

Additional Requirements for Food Operations

52. When street trading includes the provision of food, the Food Business Operator must ensure that any trading unit is sited, designed, constructed and kept clean and maintained in good repair and condition as to avoid the risk of contamination, in particular by animals and pests. Any food handler must keep a high degree of personal cleanliness, shall wear suitable protective clothing and have received suitable hygiene training. In addition the Food Business Operator shall ensure that:-
- a) appropriate facilities are available to maintain adequate personal hygiene (including facilities for the hygienic washing and drying of hands, hygienic sanitary arrangements and changing facilities)
 - b) surfaces in contact with food are to be in a sound condition and be easy to clean and, where necessary, to disinfect. This will require the use of smooth, washable, corrosion-resistant and non toxic materials, unless the food business can satisfy the Authorised Officer that other materials used are appropriate.
 - c) adequate provision is to be made for the cleaning and, where necessary, disinfecting, of working utensils and equipment
 - d) an adequate supply of hot and/or cold potable water to be available
 - e) where foodstuffs are cleaned as part of the business operation, adequate provision is to be made for this to be undertaken hygienically
 - f) adequate arrangements and/or facilities for the hygienic storage and disposal of hazardous and/or inedible substances and waste (whether liquid or solid) are to be available
 - g) adequate facilities and/or arrangements for maintaining and monitoring suitable food temperature conditions are to be available
 - h) foodstuffs are to be so placed as to avoid the risk of contamination so far as is reasonably practicable
53. Furthermore, the consent holder must put in place, implement and maintain a permanent procedure based on the HACCP principles.
54. The consent holder must maintain a Food Hygiene Rating Scheme score of 4 or 5. The hygiene rating must be displayed prominently on the stall, trailer, or vehicle.

PLEASE NOTE:

Failure to comply with these conditions may result in enforcement action, leading to this street trading consent being revoked or an application to renew being refused.

The council reserve the right to amend these standard conditions at any time.

The Council may attach any further reasonable conditions to this consent which it appears appropriate to meet particular circumstances.

This consent and any associated documents must be surrendered to the Council if the consent holder wishes to cease trading.

Any person who engages in street trading in a designated consent street unless authorised by the Council under the provisions of Schedule 4, Local Government (Miscellaneous Provisions) Act 1982 commits an offence and is liable, on conviction, to a fine not exceeding £1000 per offence i.e. for each day of trading without consent.

Appendix 7

Street Trading Policy Timeline

- 16 December 2019 – launch of Street Trading Policy 2020 consultation (10 weeks)
- Consultees Internal: the Leader, Elected Members, LPPC, Overview and Scrutiny Committee, Highways, Planning, Waste Management, City Centre Management, Environmental Health
- Consultees External: WM Police, WM Fire Service, BIDS, Street Trading Consent Holders, Residents Groups, MPs, Parish Councils, Transport for West Midlands, British Transport Police
- January 2020 – Licensing and Public Protection Committee consultation
- February 2020 – relevant Overview and Scrutiny Committee consultation
- 23 February 2020 – Street Trading Policy consultation ends
- March 2020 - review of Consultation Responses and Formulation of Final Policy document
- March 2020 – draft Full Council report enters BCC approval process
- March/April 2020 – 28 days before the Full Council report a notice must be published containing a draft resolution of all proposed designated streets and after the council has considered those representations, they may, if they think fit pass the resolution
- 7 April 2020 – Report to Full Council for approval and adoption of Policy
- April 2020 - Resolution to designate streets to be by way of notice in two consecutive weeks in local newspaper. First publication to be no later than 28 days before date specified for resolution to come into force
- April – June 2020- undertake legal process for implementing policy
- June/July/August 2020 – new policy implemented

BIRMINGHAM CITY COUNCIL**REPORT OF THE ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

15 JANUARY 2020
ALL WARDS

**CONSULTATION ON STRENGTHENING POLICE POWERS TO TACKLE
UNAUTHORISED ENCAMPMENTS**

1. Summary

- 1.1 On the 5th November 2019 the Home Office have issued a second consultation on strengthening police powers to tackle unauthorised encampments. The consultation closes on the 4th March 2020.
- 1.2 This report advises of the proposed response to the consultation to be made by officers following consultation with the Licensing and Public Protection Committee.

2. Recommendation

- 2.1 That the proposed responses to the consultation be considered by members and that officers be advised of any amendments that the committee wish to be made to the proposed responses.

Contact Officer: Mark Croxford, Head of Environmental Health
Telephone: 0121 303 6350
E-mail: mark.croxford@birmingham.gov.uk

3. Background

- 3.1 In April 2018, the Government published a consultation on the effectiveness of enforcement against unauthorised developments and encampments. It sought views from a number of stakeholders including local authorities, police forces, Gypsy, Roma, and Traveller communities and the general public on the scale of the problem, whether existing powers could be used more effectively and if any additional powers were required.
- 3.2 Following that consultation the then Home Secretary, the Rt Hon Sajid Javid MP, announced the Government would look to amend sections 61 and 62A of the Criminal Justice and Public Order Act 1994 to:
- lower the criteria that must be met for the police to be able to direct people away from unauthorised sites and
 - to review how this Government could criminalise the act of trespassing when setting up an unauthorised encampment in England and Wales, learning from the trespass legislation that exists in the Republic of Ireland.
- 3.3 This latest document consults on whether criminalising unauthorised encampments would be preferable to the amendments originally proposed in February 2019 to the Criminal Justice and Public Order Act 1994, and if so, how it should work. The full consultation can be found at <https://www.gov.uk/government/consultations/strengthening-police-powers-to-tackle-unauthorised-encampments>
- 3.4 A council motion was passed at September 2019's meeting of the City Council. The detail of that resolution is in appendix 2 for information. Actions in support of that motion will be detailed in the update report on unauthorised encampments due at February 2020 meeting of this committee.

4.0 Consultation proposals

- 4.1 The consultation is seeking comments on the following specific areas:
- i. to consult on measures to criminalise the act of trespassing when setting up an unauthorised encampment in England and Wales.
- 4.2 To consult on an alternative approach to the criminalisation of trespass by amending the Criminal Justice and Public Order Act 1994:
- ii. amending section 62A to permit the police to direct trespassers to suitable authorised sites located in neighbouring local authority areas
 - iii. amending sections 61 and 62A to increase the period of time in which trespassers directed from land would be unable to return from 3 months to 12 months

- iv. amending section 61 to lower the number of vehicles needing to be involved in an unauthorised encampment before police powers can be exercised from six to two or more vehicles
 - v. amending section 61 to enable the police to remove trespassers from land that forms part of the highway
- 4.3 Appendix 1 to this report contains the questions from the consultation and the proposed response by your officers on behalf of the committee.
5. Implications for Resources
- 5.1 No specific implications have been identified at this stage. The proposals will potentially change the powers available to Police forces in England and Wales not powers available to Councils.
- 5.2 Birmingham already has a transit site and the ability to direct unauthorised encampments to our own and those of other authorities would ensure that sufficient spaces are available without having to over provide spaces that may or may not be used.
7. Implications for Policy Priorities
- 7.1 This proposal supports the council priorities of making Birmingham a great city to live in.
9. Public Sector Equality Duty
- 9.1 No specific implications have been identified at this stage.

INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Home Office consultation available at:

<https://www.gov.uk/government/consultations/strengthening-police-powers-to-tackle-unauthorised-encampments>

Questions within the consultation on strengthening police powers to tackle unauthorised encampments, with proposed responses.

Q1. To what extent do you agree or disagree that knowingly entering without the landowner's permission should only be made a criminal offence if it is for the purpose of residing on it?

A1. **Strongly agree** / Agree / Neither agree or disagree / Disagree / Strongly disagree

Rationale

The focus of the consultation is around tackling unauthorised encampments which typically relate to the unauthorised access of land by members of the travelling community with their vehicles for the purposes of residing on the land. By residing on the land it often removes the land from the land owners, or in the case of public open space, the settled communities use or peaceful enjoyment

Q2. To what extent do you agree or disagree that the act of knowingly entering land without the landowner's permission should only be made a criminal offence if it is for the purpose of residing on it with vehicles?

A2. **Strongly agree** / Agree / Neither agree or disagree / Disagree / Strongly disagree

Rationale

This focus of this consultation is around tackling unauthorised encampments which typically relate to the unauthorised access of land by members of the travelling community with their vehicles for the purposes of residing on the land.

Q3. To what extent do you agree or disagree that the landowner or representatives of the landowner should take reasonable steps to ask persons occupying their land to remove themselves and their possessions before occupation of the land can be considered a criminal offence?

A3. **Strongly agree** / Agree / Neither agree or disagree / Disagree / Strongly disagree

Rationale

Birmingham City Council always engages with persons occupying their land in an unauthorised manner, advising them that they are occupying without permission or consent and that they should leave the land in a reasonable time period. This is usually done following the discharge of the duty to undertake a welfare assessment to ensure that the welfare needs of the persons in unauthorised encampment are considered in the wider process. Continuing to engage in this fashion is sensible, humanitarian and would likely not impinge on a person's human rights. To avoid unnecessary costs it may be useful to not

require such engagement from private landowners who do not have a duty to undertake welfare assessments.

Q4 To what extent do you agree or disagree that a criminal offence can only be committed when the following conditions have been met?

Q4a. a) the encampment prevents people entitled to use the land from making use of it;

A4a. **Strongly agree** / Agree / Neither agree or disagree / Disagree / Strongly disagree

Q4b. b) the encampment is causing or is likely to cause damage to the land or amenities;

A4b. **Strongly agree** / Agree / Neither agree or disagree / Disagree / Strongly disagree

Q4c. c) those on the encampment have demanded money from the landowner to vacate the land;

A4c. **Strongly agree** / Agree / Neither agree or disagree / Disagree / Strongly disagree

Q4d. d) those on the encampment are involved or are likely to be involved in anti-social behaviour.

A4d. **Strongly agree** / Agree / Neither agree or disagree / Disagree / Strongly disagree

Rationale

We have indicated Strongly Agree to all of Qu. 4a to 4d, but we would not want this to be an exhaustive list nor would we seek any one of these to be a sole criterion. We would prefer this to be an indicative list and if any one or more of these criteria were met, then it should automatically make the trespass a criminal offence.

This focus of this consultation is around tackling unauthorised encampments which typically relate to the unauthorised access of land by members of the travelling community with their vehicles for the purposes of residing on the land.

The typical impact of an unauthorised encampment to the landowner is the prevention of the lawful use of the land and damage to the land during the occupation e.g. surface damage, fly-tipping, forced entry and the use of the land as a toilet. These arise as a result of the trespass. If a criminal offence is to be considered, then this should be triggered when any of these criteria are met.

Q5. What other conditions not covered in the above should we consider?

A5. Although it could be considered under damage to land the following should be added more overtly: Any criminal damage to locks, barriers or other property on the site.

Q6. To what extent do you agree or disagree that police should be given the power to direct trespassers to suitable authorised sites in a neighbouring local authority area?

A6. **Strongly agree** / Agree / Neither agree or disagree / Disagree / Strongly disagree

Rationale

This would improve the strategic approach, economic and operational response around dealing with unauthorised encampments at a regional level. This would benefit police forces who operate across local council boundaries and would also tie in with combined authority boundaries. There should be a requirement that the Sec 62A power can only be used if the borough in which the unauthorised encampment is currently residing has such a transit site. In such circumstances the Sec 62A needs to make it a criminal offence to settle on any land within any borough covered by the Sec 62A direction order.

Q7. Should this be subject to conditions around agreements being in place between local authorities?

A7. Yes / **No**

Rationale

There needs to be a consistency in England and Wales, and this should not be left to local agreements. However, the power to direct to another local authority area should only be available to those authorities with transit sites. It should also be within a reasonable distance such as a contiguous authority. Birmingham would not want to be using its transit site provision to underwrite an authority without such a facility.

Q8: Should there be a maximum distance that a trespasser can be directed across?

A8. **Yes**/No

Rationale

If yes, what distance should that be? It is unlikely that the needs of the travelling community can be met by directing them significant distances. It seems sensible to apply a caveat that the direction should be no further than an adjacent local authority or 20 miles whichever is the smaller. The test for reasonability is around access to services such as hospitals. We would not want to be directing a group to a distance which impacted on

medical care. In large rural areas the mileage limitation may have an impact not felt with by metropolitan councils.

Q9: Should there be any other conditions that should be considered when directing a trespasser across neighbouring authorities. If so, what should these be?

A9. **Yes/No**

If yes, what should these be? The direction Order should protect all land inside the borough where the notice was served and the borough(s) to which the unauthorised encampment was directed to.

Q10. To what extent do you agree or disagree that the period of time in which trespassers directed from land would be unable to return should be increased from 3 months to 12 months?

A10. Strongly agree / **Agree** / Neither agree or disagree / Disagree / Strongly disagree

Rationale

Having a single direction in a twelve month period reduces the operational involvement of the police and local authorities, theoretically slightly reducing operational pressures.

There is however a concern that the operational use of transit sites needs to be updated in Government Guidance¹. At present the direction to a transit site precludes those so served from entering any land within the local authority for a period of three months from the date of the direction. This brings into question the operational use of a transit site and what should be considered a reasonable period of time for a person upon the site to be permitted to be in residence on a transit site. The rationale for a transit site is to support those living a transitory lifestyle and as such a view is that occupancy on the transit site be limited to one month within each period of direction served by the police, in effect permitting a total of four months occupancy in any twelve month period. This is to maintain the operational viability of the transit site and to prevent it becoming a permanent residential site for any group or person(s). there is nothing stated in guidance which advises on this position and as such it is subject to challenge by private solicitors on behalf of the travelling community. Having clarity on this would promote transparency and consistency and reduce needless legal debate. This will be increasingly so if the decision is to shift to a twelve month period of time in which trespassers directed from land would be unable to return.

1

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/418139/15032_6_Dealing_with_illegal_and_unauthorised_encampments_-_final.pdf

Q11. To what extent do you agree or disagree that the number of vehicles needing to be involved in an unauthorised encampment before police powers can be exercised should be lowered from six to two vehicles?

A11. Strongly agree / Agree / **Neither agree or disagree** / Disagree / Strongly disagree

Rationale

In our experience this power has never been exercised solely based on the numbers of caravans present rather it has been based on lawfulness, proportionality and necessity of such an action. The criteria for triggering a direction under s61 is a discretionary choice for the police and is often subject to one of a number of criteria being met, most relating to there being adverse behaviour on the part of the occupants e.g. "that any of those persons has caused damage to the land or to property on the land or used threatening, abusive or insulting words or behaviour towards the occupier, a member of his family or an employee or agent of his".

Q12. To what extent do you agree or disagree that the police should be granted the power to remove trespassers from land that forms part of the highway?

A12 Strongly agree / Agree / Neither agree or disagree / Disagree / Strongly disagree

Rationale

There have been instances where groups have encamped on the highway in industrial parks and this has had operational impacts on local businesses and concerns for the health and safety of the occupiers e.g. when encamped on turning circles for HGV drivers who have pets and children running around their manoeuvring vehicles. The highway back of pavement to back of opposite pavement is totally unsuitable for unauthorised encampments.

Q13: To what extent do you agree or disagree that the police should be granted the power to seize property, including vehicles, from trespassers who are on land with the purpose of residing on it?

A13 Strongly agree / Agree / **Neither agree or disagree** / Disagree / Strongly disagree

Rationale

The power to seize vehicles already exists under s62C. extending this to include property or to be a response following a s61 direction is possible, but a matter for the police to comment. The obvious difficulty is the potential to remove a persons home from a family and this is likely to be disproportionate.

- Q14: Should the police be able to seize the property of:
- i) Anyone whom they suspect to be trespassing on land with the purpose of residing on it;
 - ii) Anyone they arrest for trespassing on land with the purpose of residing on it; or
 - iii) Anyone convicted of trespassing on land with the purpose of residing on it?

A14. Only if it is proportionate to do so. If this power is enacted then there should be clear information on how the property can be recovered or disposed of.

Q15. To what extent do you agree or disagree that the proposed amendments to sections 61 and 62A of the Criminal Justice and Public Order Act 1994 contained in this consultation are sufficient measures to tackle the public disorder issues which are associated with unauthorised encampments without the requirement for introducing specific powers that criminalise unauthorised encampments?

Strongly agree / **Agree** / Neither agree or disagree / Disagree / Strongly disagree

Rationale

The powers under s61 and s62A are discretionary, however if utilised they are a strong deterrent to the establishment of unauthorised encampments. The key aspect however is the presence of a transit site as that opens up s62A. Experience has shown that the absence of a transit site leads to more applications for High Court injunctions and reliance on s61, neither of which are within the control of the local authority. The presence of a transit site however, with support from the local police force is the most fair way to manage the issue of unauthorised encampments.

Q16. Do you expect that the proposed amendments to sections 61 and 62A of the Criminal Justice and Public Order Act 1994 contained in this consultation would have a positive or negative impact on the health or educational outcomes of Gypsy, Roma and Traveller communities? If so, do you have any evidence to support this view, and/or suggestions for what could be done to mitigate or prevent any negative impacts?

A16. Highly positive impact / **Positive impact** / Neither positive nor negative impact / Negative impact / Highly negative impact

Rationale

The most difficult task when dealing with unauthorised encampments is to make a fair and meaningful welfare assessment. Sometimes information is given to try and obtain an extended toleration of the encampment and it is difficult for officers to make an informed decision. The provision of transit sites and or tolerated stopping places significantly aids in a consistent response to welfare needs at a single location. Those with a real need often have significant supporting information to evidence their needs. However, it is difficult to challenge those who do not have such evidence.

Q17. Do you expect that criminalising unauthorised encampments would have a positive or negative impact on the health or educational outcomes of Gypsy, Roma and Traveller communities? If so, do you have any evidence to support this view, and/or suggestions for what could be done to mitigate or prevent any negative impacts?

A17. Highly positive impact / Positive impact / **Neither positive nor negative impact** / Negative impact / Highly negative impact

Rationale

In our experience those with significant health problems have worked closely with our officers to meet the identified needs.

Q18. Do you have any other comments to make on the issue of unauthorised encampments not specifically addressed by any of the questions above?

A18. None identified

CITY COUNCIL

10 SEPTEMBER 2019

MOTIONS FOR DEBATE FROM INDIVIDUAL MEMBERS

To consider the following Motions of which notice has been given in accordance with Standing Order 4 (i)

A. Councillors Adam Higgs and Bruce Lines have given notice of the following Notice of Motion:-

"This Council shares the concerns of residents about illegal encampments on public open spaces and other areas in the city. The Council believes everyone should be welcome in this city as long as they are law-abiding and have respect for other residents and visitors. Behaviour which blocks public access to parks, intimidates residents, damages property and leaves behind mess that has to be cleared at tax payers' expense should not be tolerated from anyone regardless of their background.

The Council condemns the damage and disruption caused by individuals and groups who unlawfully set up encampments in the city in recent years, such as on popular local places such as Daisy Farm Park and Pype Hayes Park.

Preventing illegal incursions, and evicting illegal encampments as quickly as possible requires a robust joint response by both the Council and the Police, too often the response is too slow and too variable across the city which encourages those intent on acting in this way in coming to Birmingham and moving around the city from park to park as and when evictions are eventually carried out. The Council believes a City wide injunction is needed to prevent this.

Given the cost to tax payers associated with this activity – including legal fees and the cleaning costs – this Council also believes that more should be done to seek to recover the costs to the public purse from the perpetrators.

The Council notes the Government's response to its consultation on powers for dealing with unauthorised encampments and welcomes proposals for additional powers to the police, including:

- Ability to direct trespassers to suitable sites in neighbouring local authorities (currently the police can only direct trespassers to sites within the local authority).
- To increase the period of time in which trespassers directed from land would be unable to return (from 3 to 12 months).
- Ability to act on encampments where two or more vehicles are present (currently there has to be 6 or more).
- Allows police to remove trespassers on land which forms part of the highway.

The Council also notes that the Government intends to consult on making deliberate trespass a criminal offence, as it already the case in the Republic of Ireland where it has shown to be effective in tackling the problem of unauthorised encampments.

The Council resolves to

- Write to the Government expressing its support for all the proposed additional powers for the police as well as for legislation making deliberate trespass a criminal offence. This letter should make the case for both of these to be implemented as soon as possible.
- Work with the West Midlands Police to adopt a zero tolerance approach to all unauthorised encampments, ensuring all existing powers are used to evict trespassers as soon as possible.
- Ask the Executive to implement as soon as possible a city wide injunction against unauthorised encampments and fly-tipping to enable the speedy removal of such encampments and prevent the practice of moving from site to site within the city boundaries.
- Request the relevant Director and officers to see what more can be done to recover costs through the courts from trespassers for the associated legal fees, repairs to property and cleaning costs and to report back to Council Business Management Committee.
- Proactively work with local communities and ward councillors to identify areas vulnerable to trespass and install measures to deter unauthorised encampments and that the relevant officers report back on steps taken to Council Business Management Committee.
- Promote clearer reporting mechanisms for residents so that swift action can be taken at the first sign of unauthorised encampments being set up and that the relevant officers report back on steps taken to Council Business Management Committee.”

BIRMINGHAM CITY COUNCIL

**REPORT OF THE ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

15 JANUARY 2020
ALL WARDS

EMERGENCY RESPONSE TO SODIUM: OXHILL ROAD

1. Summary
 - 1.1 This report advises Committee on work undertaken by Environmental Health as part of its public protection role including out of hours.
2. Recommendations
 - 2.1 That the actions taken in respect of this matter and charges on the premises be endorsed.

Contact Officer: Mark Croxford, Head of Environmental Health
Telephone: 0121 303 6350
E-mail: mark.croxford@birmingham.gov.uk

3. Background

- 3.1 On the 7th November 2019, West Midlands Fire Service attended a fire in a garage to the rear of a property in Oxhill Road, Handsworth.
- 3.2 The fire initially reported as a chemical fire required attendance by Environmental Health and the deployment of emergency chemical waste contractors to make safe the area.

4. Incident

- 4.1 The incident occurred at approximately 9pm on Thursday the 7th November and the attached presentation details what occurred.

5. Consultation

- 5.1 This work was undertaken as part of business as usual and emergency response. Consultation is not required.

6. Implications for Resources

- 6.1 The council has a duty to take all steps required to keep residents safe. Applications are being made to emergency contingency funds to cover the costs incurred. Charge on property

7. Implications for Policy Priorities

- 7.1 This work supports the Regulation and Enforcement Division's mission statement to provide 'locally accountable and responsive fair regulation for all - achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors'.

8. Public Sector Equality Duty

- 8.1 There is no equality implications from this work.

INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

Environmental Health: Emergency Response to Sodium, Oxhill Road Handsworth

Mark Croxford
Head of Environmental Health
Regulation and Enforcement

December 2019

What is Sodium

- Sodium is an element
- Sodium is a soft white metal which can be cut using a knife
- It is highly reactive and not normally found in its metal form, unless stored under oil
- Common compounds include Salt (Sodium Chloride)
- If you put sodium in water https://youtu.be/ODf_sPexS2Q?t=32

The Garage



Thursday 7th November 2019

- WM Fire Service are called to a fire in a garage off Oxhill Road, Handsworth, Birmingham.
- On attendance the WMFS establish the fire has gone out but a 200litre barrel has exploded ejecting material onto Windermere Road
- Specialist advisors to WMFS advise the chemical is Sodium.



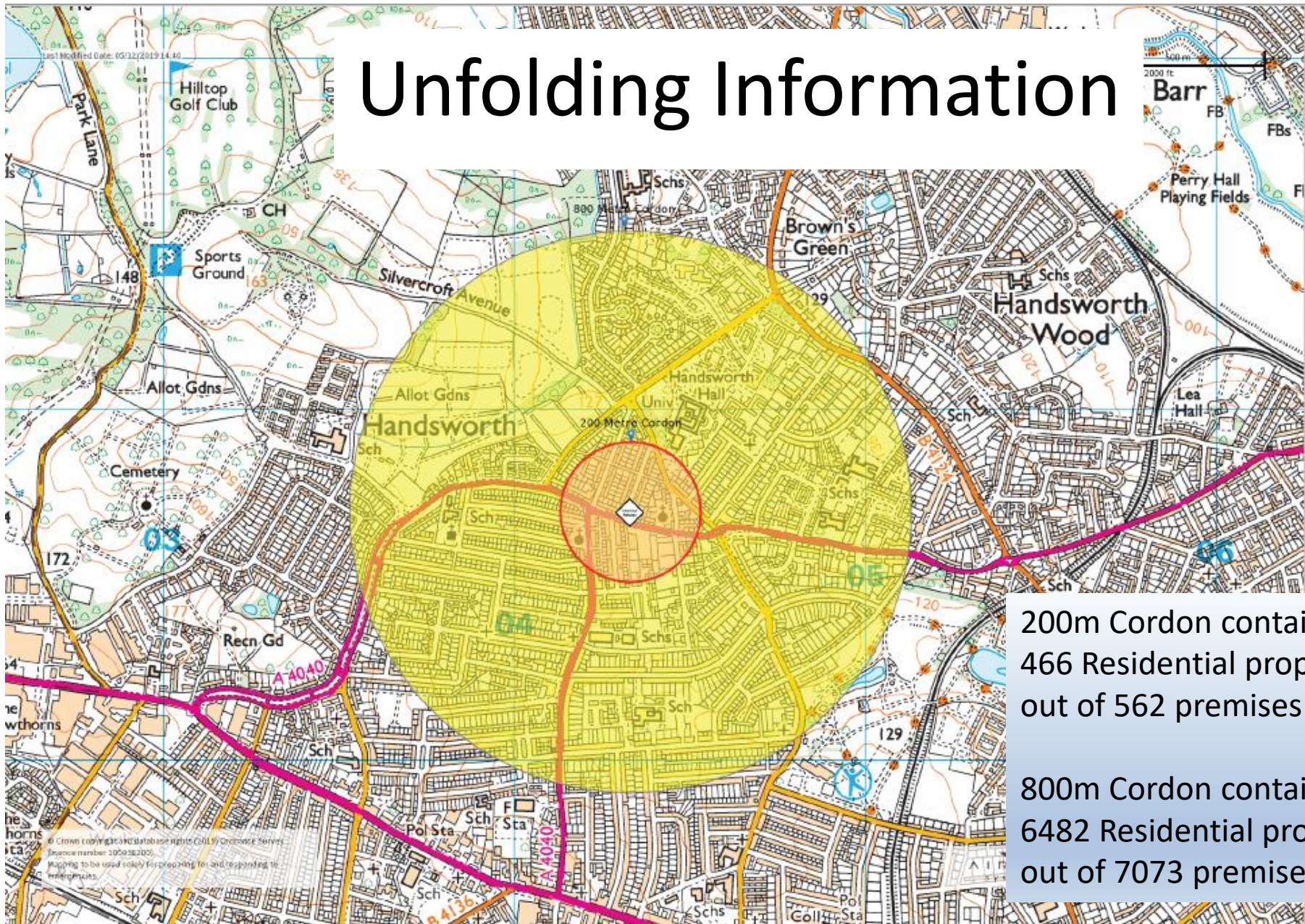
210 L Steel Blue Plain UN
Approved Open Top Drum with
Bung

Response



- 8 Fire engines Attend
- Police set up a 200m cordon
- BCC Emergency Response Officers attend
- 21.00hrs
Environmental Health requested to provide a specialist Chemical company

Unfolding Information



- WMFS advise if the Sodium cannot be removed they will evacuate everyone from all properties within 800m of the garage.

Unfolding Information



- There are 30 Barrels
- Some are double stacked
- The garage is leaking rainwater and this has rotted the barrels. Water entered a barrel and this lead to the explosion and the ejection of sodium from the garage.
- The fire service have coved the barrels with tarpaulin.
- It isn't raining....at the moment!

The Scene



Specialist Chemical Company



- Adler and Allen a specialist waste company are engaged to assist in removal of the drums of Sodium
- 22.30hrs Environmental Health serve a notice on “the owner” of Oxhill Road to abate the Statutory Nuisance
- 23.15hrs Chemist arrives on site

Clear-up



- Chemical waste transport company based in London
- Over barrels required
- Sodium to go to 1 or 2 incinerators licensed to dispose of sodium

The Clear up



- Water has to be removed
- Sodium that was ejected catches fire
 - Sodium Oxide
 - Sodium Hydroxide and Hydrogen
- Almost completed
- Most dangerous drum

Morning after the Night before



- There is WMFS foam on the road
- There appears to be cuckoo spit on the road and gardens
- A block of Sodium slightly larger than a computer mouse is found
- The road is PH 10 (strongly alkaline)

Statistics

- The service of the notice will enable BCC to put a charge on the property.
- The waste incinerators refused to take the sodium unless it is repackaged and safe to handle.
- The waste site the sodium is currently stored at has had to get an emergency variation to its licence conditions
- The total Sodium removed is 2 tonnes in weight
- In total there is thought to be <1 tonne of sodium in all of the UK
- BCC now owns the greatest amount of sodium in its metallic form in Western Europe.
- The clean up costs on the night are estimated at £25k
- Some of the sodium is in blocks around 8kg in weight
- Repackaging and incineration is likely to cost £175K
- There is no market for sodium to be sold currently

Questions?



Regulation and Enforcement



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BIRMINGHAM CITY COUNCIL

**REPORT OF THE INTERIM ASSISTANT DIRECTOR OF
REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

15 JANUARY 2020
ALL WARDS

**SENTENCING GUIDELINES FOR FOOD SAFETY, FOOD HYGIENE AND HEALTH &
SAFETY OFFENCES**

1. Summary

- 1.1 This report provides Committee with an update as to why some prosecutions undertaken by Environmental Health are attracting significantly larger fines than previously.

2. Recommendations

- 2.1 That the report is noted.

Contact Officer: Mark Croxford, Head of Environmental Health
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E-mail: mark.croxford@birmingham.gov.uk

3. Background

- 3.1 Where offences under Food Safety legislation or Health and Safety legislation were prosecuted for many years it was very difficult to predict the level of fines that would be handed down at sentencing. This led to significant variations in local courts as well as regional and national variations that often called into question the fairness of sentencing.
- 3.2 In 2014 there was a review of sentencing guidelines and a consultation document was issued in 2015 proposing an overhaul in the way the judiciary would consider such offences. There would be a defined process for the magistrate or judge to follow and in so doing all magistrates/judges would apply roughly the same fine nationally with variations within bands dependent on consideration of mitigating factors or compounding factors.
- 3.3 Following the consultation the new sentencing guidelines came into force on the 1st February 2016, regardless of when the offence was committed. The guidelines apply equally to technical offences such as mis-labelling as they do to hygiene offences such as failing to clean or a fatal health and safety accident as they do to failing to comply with a notice requiring a safety guard to be reinstated on a machine.

4. Guidelines

- 4.1 The guidance introduces a 9-step process and slight differences in the process between individuals or a company that commits the offence.

Breach of Food or Health and Safety - Organisations	Breach of Food or Health and Safety – Individuals
<ul style="list-style-type: none">1. Determining the offence category2. Starting point and category range3. Check whether the proposed fine, based on turnover, is proportionate to the overall means of the offender4. Consider other factors that may warrant adjustments of the proposed fine5. Consider any factors which indicate a reduction, such as assistance to the prosecution6. Reduction for guilty pleas7. Compensation and ancillary orders8. Totality principle9. Reasons	<ul style="list-style-type: none">1. Determining the offence category2. Starting point and category range3. Review any financial element of the sentence4. Consider any factors which indicate a reduction, such as assistance to the prosecution5. Reduction for guilty pleas6. Compensation and ancillary orders7. Totality principle8. Reasons9. Consideration of the time spent on bail

- 4.2 The offence category is determined by two factors, culpability and harm. Culpability looks at a spectrum between deliberate/flagrant disregard for the law (very high culpability) to the offence was not far short of the required standard (low culpability). The second element refers to the actual harm caused or likelihood of that harm occurring, and this is given 3 categories. Category 1 being high risk and category 3 being low risk
- 4.3 Within the sentencing guidelines there are then tables to define the starting point for the fine. This is based on company turnover and then the offence category. The

Health and Safety offences attract a higher tariff than Food offences, appendix 1. For a Health and Safety offence for a large company (turnover >£50m) with Very high culpability and category 1 harm then the starting point is £4m fine. The court will then work through other mitigating or compounding considerations as to why the offence occurred and the penalty will be in the range of £2.6m and £10m. The fine for the same large company with very high culpability and cat 1 harm offences starts at £1.2m and ranges between £0.5m and £3m.

- 4.4 It is these defined ranges that have done much to reduce the variation in fines across the country for similar offences as well as concentrating the mind of those in control as to their health and safety duties or need to be compliant with food safety standards. An element of publishing the guidelines is to give certainty and the ability to assess risks of non-compliance.
- 4.5 The remaining six steps are to ensure that everything is considered and given due value if it mitigates or exacerbates the offence. The court also must explain its rationale in coming to its conclusion and this must be proportionate to the original offence. Positive steps include first offences, good track record of compliance or voluntary steps taken to address problems. Exacerbating factors include obstruction, offence led to significant financial gain and breach of a court order.

5. The effect

- 5.1 In some of the Environmental Health prosecutions we have seen a substantial up-lift in the fines particularly for larger companies. This has in-turn led to those companies becoming more engaged in trying to prevent recurring offending. There has not been a noticeable change in fines for individuals, however for many years prior to these changes courts have been taking into account offenders ability to pay fines and therefore this may not be that surprising.

6. Consultation

- 6.1 The report is for information and, therefore, no consultation has been undertaken.

7. Implications for Resources

- 7.1 There is no implication on resources. Currently all fines are collected by the courts and are monies for government not local government.

8. Implications for Policy Priorities

- 8.1 This work supports the Regulation and Enforcement Division's mission statement to provide 'locally accountable and responsive fair regulation for all - achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors'.

9. Public Sector Equality Duty

9.1 None identified outside those that are covered in the divisions enforcement policy

INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers:

<https://www.sentencingcouncil.org.uk/wp-content/uploads/Health-and-Safety-Corporate-Manslaughter-Food-Safety-and-Hygiene-definitive-guideline-Web.pdf>

Example of a table to determine starting point of fines for varying sizes of food business, from the Health and Safety Offences, Corporate Manslaughter and Food Safety and Hygiene Offences Guidance. The final column provides the range for the fine following dispensations for positive action to prevent the commissioning of the offence or increased fine for actions that promoted or made more likely the offending.

Large			
Turnover or equivalent: £50 million and over			
	Starting point	Range	
Very high culpability			
Harm category 1	£1,200,000	£500,000 –	£3,000,000
Harm category 2	£500,000	£200,000 –	£1,400,000
Harm category 3	£200,000	£90,000 –	£500,000
High culpability			
Harm category 1	£500,000	£200,000 –	£1,400,000
Harm category 2	£230,000	£90,000 –	£600,000
Harm category 3	£90,000	£50,000 –	£240,000
Medium culpability			
Harm category 1	£200,000	£80,000 –	£500,000
Harm category 2	£90,000	£35,000 –	£220,000
Harm category 3	£35,000	£20,000 –	£100,000
Low culpability			
Harm category 1	£35,000	£18,000 –	£90,000
Harm category 2	£18,000	£9,000 –	£50,000
Harm category 3	£10,000	£6,000 –	£25,000
Medium			
Turnover or equivalent: between £10 million and £50 million			
	Starting point	Range	
Very high culpability			
Harm category 1	£450,000	£200,000 –	£1,200,000
Harm category 2	£200,000	£80,000 –	£500,000
Harm category 3	£80,000	£40,000 –	£200,000
High culpability			
Harm category 1	£200,000	£90,000 –	£500,000
Harm category 2	£90,000	£35,000 –	£220,000
Harm category 3	£35,000	£18,000 –	£90,000
Medium culpability			
Harm category 1	£80,000	£35,000 –	£190,000
Harm category 2	£35,000	£14,000 –	£90,000
Harm category 3	£14,000	£7,000 –	£35,000
Low culpability			
Harm category 1	£12,000	£7,000 –	£35,000
Harm category 2	£7,000	£3,500 –	£18,000
Harm category 3	£3,500	£2,000 –	£10,000

BIRMINGHAM CITY COUNCIL

REPORT OF THE ACTING SERVICE DIRECTOR REGULATION AND ENFORCEMENT TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE

15 JANUARY 2020
ALL WARDS

PROSECUTIONS AND CAUTIONS – NOVEMBER 2019

1. Summary

1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the month of November 2019.

2. Recommendation

2.1 That the report be noted.

Contact Officer: Paul Lankester
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3. Results

3.1 During the month of November 2019 the following cases were heard at Birmingham Magistrates Court, unless otherwise stated:

- 62 Environmental Health cases were finalised resulting in fines of £27,884. Prosecution costs of £12,096 were awarded. One simple caution was administered as set out in Appendix 1.
- Two Licensing cases were finalised resulting in fines of £1,260 and 14 penalty points issued. Prosecution costs of £1,150 were awarded. Eight simple cautions were administered as set out in Appendix 2.
- No Trading Standards cases were finalised and no simple cautions were administered as set out in Appendix 3.
- One Waste Enforcement case was finalised resulting in a fine of £40. Prosecution costs in the sum of £150 were awarded. No simple cautions were administered as set out in Appendix 4.
- Appendix 5 lists cases finalised by district in November 2019 and cases finalised by district April 2019 – November 2019.
- Appendix 6 lists the enforcement activity undertaken by the Waste Enforcement Team from April 2019 to November 2019.

4. Consultation

4.1 The Enforcement Policy that underpins the work identified in this report is approved by your Committee. The policy reflects the views of the public and business in terms of the regulation duties of the Council. Any enforcement action[s] taken as a result of the contents of this report are subject to that Enforcement Policy.

5. Implications for Resources

5.1 Costs incurred in investigating and preparing prosecutions, including officers' time, the professional fees of expert witnesses etc. are recorded as prosecution costs. Arrangements have been made with the Magistrates Court for any costs awarded to be reimbursed to the City Council. Monies paid in respect of fines are paid to the Treasury.

5.2 For the year April 2019 to November 2019 the following costs have been requested and awarded:

Environmental Health (including Waste Enforcement cases)

£191,059 has been requested with £151,855 being awarded (79%).

Licensing

£14,232 has been requested with £7,922 being awarded (56%)

Trading Standards

£41,429 had been requested with £21,096 being awarded (51%).

- 5.3 For the month of November 2019 the following costs have been requested and awarded:

Environmental Health (including Waste Enforcement cases)
£13,701 has been requested with £12,246 being awarded (89%).

Licensing
£1,968 has been requested with £1,150 being awarded (58%)

Trading Standards
No costs have been requested or awarded

- 5.4 The following income has been received so far from the courts in 2019/20.

Environmental Health
£31,521 has been received including Waste Enforcement cases.

Licensing
£1,368 has been received.

Trading Standards
£5,040 has been received.

(Total £37,929).

- 5.5 This will not directly correlate to the values awarded in the same time period as individual cases are often cleared in instalments with the associated fines and court costs taking precedence over the settling of BCC legal costs. Therefore, income received may relate to cases from the previous financial year or earlier.

6. Implications for Policy Priorities

- 6.1 The contents of this report contribute to the priority action of ensuring business compliance with legislation to protect the economic interests of consumers and businesses as contained in the Council Business Plan 2015+.

7. Public Sector Equality Duty

- 7.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Licensing and Public Protection Committee which ensures that equality issues have been addressed.

DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

FOOD HYGIENE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	14/11/19	Azqa Quick Stop Ltd 87 Finnemore Road Birmingham B9 5XT	Food Safety and Hygiene (England) Regulations 2013 Pleaded guilty to four offences relating to conditions found during an inspection at Azqa Quick Stop, 982 Tyburn Road, Birmingham. There was evidence of mouse activity throughout the premises. Packets of ready to eat food, on display for sale, had been damaged by pest activity. The premises were not kept clean, mouse droppings were found at floor/wall junctions and debris was found on the floor under display units. There were several potential pest entry points in the ceiling of the premises.	£3,000 – offence 1 No separate penalty for remaining offences £912 costs (£912 requested)	Heartlands	Pype Hayes
2	25/11/19	Nonia Mini Market Ltd 75 Villa Road Birmingham B19 1NH	Food Safety and Hygiene (England) Regulations 2013 Pleaded guilty to three offences relating to conditions at Nonia Mini Market, 75 Villa Road, Birmingham. There were no adequate procedures in place to control pests, mouse droppings were found throughout the premises and mice had gnawed packets of food in boxes in the storeroom. There were gaps, cracks and crevices within the structure and construction of the building, in particular gaps under the front door. The Company also failed to register as a food business with Birmingham City Council. Originally listed for trial.	£13,500 £1,959 costs (£1,959 requested)	Birchfield	Birchfield

LITTER OFFENCES - SJP

	Date Case Heard	Name	Fine/Penalty & Costs	Ward of defendant
3	8/11/19	George Atkinson Cheltenham Proved in absence	£220 £175 costs (£175 requested)	Out of area
4	8/11/19	Sian Barnes Derby Proved in absence	£220 £175 costs (£175 requested)	Out of area
5	8/11/19	Karina Box Caerphilly Proved in absence	£220 £175 costs (£175 requested)	Out of area
6	8/11/19	Allan Bruce Rowley Regis Guilty plea	£146 £75 costs (£175 requested)	Out of area
7	8/11/19	Alban Cengu Wolverhampton Proved in absence	£220 £175 costs (£175 requested)	Out of area
8	8/11/19	Moisa Cobazariu Birmingham Proved in absence	£220 £175 costs (£175 requested)	Heartlands
9	8/11/19	Richard Dhillon Telford Proved in absence	£220 £175 costs (£175 requested)	Out of area

10	8/11/19	Quoc Dinh Oldbury Proved in absence	£220 £175 costs (£175 requested)	Out of area
11	8/11/19	Cosmina Dobrax Oldbury Proved in absence	£220 £175 costs (£175 requested)	Out of area
12	8/11/19	Sophie Doran Shipston on Stour Proved in absence	£220 £175 costs (£175 requested)	Out of area
13	8/11/19	Laura Dowling Sheffield Proved in absence	£220 £175 costs (£175 requested)	Out of area
14	8/11/19	Alisha Farah Birmingham Proved in absence	£220 £175 costs (£175 requested)	Newtown
15	8/11/19	Alexandru Fota Smethwick Proved in absence	£220 £175 costs (£175 requested)	Out of area
16	8/11/19	Myles Franckel Warrington Proved in absence	£220 £175 costs (£175 requested)	Out of area
17	8/11/19	Radoslaw Pawel Garbicz Burton on Trent Proved in absence	£220 £175 costs (£175 requested)	Out of area

18	8/11/19	Sarah Hammeron Walsall Proved in absence	£220 £175 costs (£175 requested)	Out of area
19	8/11/19	Ibrahim Kallon Birmingham Proved in absence	£220 £175 costs (£175 requested)	Ladywood
20	8/11/19	Naimeet Kanabae Leicester Proved in absence	£220 £175 costs (£175 requested)	Out of area
21	8/11/19	Naqa Ali Khan Birmingham Proved in absence	£220 £175 costs (£175 requested)	Acocks Green
22	8/11/19	Aaron Kirkham Birmingham Proved in absence	£220 £175 costs (£175 requested)	Erdington
23	8/11/19	James Lee Wolverhampton Proved in absence	£220 £175 costs (£175 requested)	Out of area
24	8/11/19	Jason Marc Lindsay Birmingham Guilty plea	£40 £75 costs (£175 requested)	Soho & Jewellery Quarter
25	8/11/19	Jamie Lockett Liverpool Proved in absence	£220 £175 costs (£175 requested)	Out of area

26	8/11/19	Alexandru Lonita Birmingham Proved in absence	£220 £175 costs (£175 requested)	Bordesley Green
27	8/11/19	Amy Lowe Walsall Proved in absence	£126.50 £175 costs (£175 requested)	Out of area
28	8/11/19	Christopher Lynch Birmingham Guilty plea	£40 £75 costs (£175 requested)	Brandwood & Kings Heath
29	8/11/19	Tariq Mahmood Birmingham Proved in absence	£220 £175 costs (£175 requested)	Stockland Green
30	8/11/19	Siobhan Marsh Swadlincote Proved in absence	£220 £175 costs (£175 requested)	Out of area
31	8/11/19	Shannon Millington Birmingham Guilty plea	£40 £75 costs (£175 requested)	Kingstanding
32	8/11/19	Erik Moinar Smethwick Proved in absence	£220 £175 costs (£175 requested)	Out of area
33	8/11/19	Bianca Neagu Cannock Guilty plea	£146 £75 costs (£175 requested)	Out of area

34	8/11/19	Colorado Orbu Dudley Proved in absence	£220 £175 costs (£175 requested)	Out of area
35	8/11/19	Bryn Phillips Manchester Proved in absence	£220 £175 costs (£175 requested)	Out of area
36	8/11/19	Rhys Price Birmingham Proved in absence	£220 £175 costs (£175 requested)	North Edgbaston
37	8/11/19	Christopher Redfern Bury Guilty plea	£130 £75 costs (£175 requested)	Out of area
38	8/11/19	Fatima Romasanta Chelmsford Proved in absence	£220 £175 costs (£175 requested)	Out of area
39	8/11/19	Jennifer Ryan Wigan Proved in absence	£220 £175 costs (£175 requested)	Out of area
40	8/11/19	Hanif Sadiqi Birmingham Proved in absence	£220 £175 costs (£175 requested)	Erdington
41	8/11/19	Wei Quan See Birmingham Proved in absence	£220 £175 costs (£175 requested)	Soho & Jewellery Quarter

42	8/11/19	Banayiotis Sofroniou Smethwick Proved in absence	£220 £175 costs (£175 requested)	Out of area
43	8/11/19	Doru Stoica Birmingham Guilty plea	£40 £75 costs (£175 requested)	Ladywood
44	8/11/19	Bartosz Szydlak Birmingham Proved in absence	£220 £175 costs (£175 requested)	Pype Hayes
45	8/11/19	Ivaylo Tsvetkov Birmingham Guilty plea	£70 No costs awarded (£175 requested)	Soho & Jewellery Quarter
46	8/11/19	Artur Ukinski Cheltenham Proved in absence	£220 £175 costs (£175 requested)	Out of area
47	8/11/19	Lujie Wang London Proved in absence	£220 £175 costs (£175 requested)	Out of area
48	8/11/19	Alison Wilkes Birmingham Guilty plea	£40 £75 costs (£175 requested)	Shard End
49	8/11/19	Nicholes Willes Liverpool Proved in absence	£220 £175 costs (£175 requested)	Out of area

50	8/11/19	Natalie Worgan Willenhall Proved in absence	£220 £175 costs (£175 requested)	Out of area
51	8/11/19	Darren Zen Birmingham Proved in absence	£220 £175 costs (£175 requested)	Bordesley & Highgate
52	22/11/19	Alex Bandula Birmingham Proved in absence	£220 £175 costs (£175 requested)	Glebe Farm & Tile Cross
53	22/11/19	Hayley Eaton Coventry Guilty plea	£40 £75 costs (£175 requested)	Out of area
54	22/11/19	Toni-Anne Freeman Coventry Guilty plea	£40 £75 costs (£175 requested)	Out of area
55	22/11/19	Samuel Gray Birmingham Proved in absence	£220 £175 costs (£175 requested)	Sparkhill
56	22/11/19	Pritpal Singh Hunjan Birmingham Guilty plea	£146 £75 costs (£175 requested)	Weoley & Selly Oak
57	22/11/19	Samuel Johnson Birmingham Proved in absence	£220 £175 costs (£175 requested)	Longbridge & West Heath

58	22/11/19	Zaniar Kadir Birmingham Proved in absence	£220 £175 costs (£175 requested)	North Edgbaston
59	22/11/19	Nabil Sahlaoui Birmingham Proved in absence	£220 £175 costs (£175 requested)	North Edgbaston
60	22/11/19	Eni Sula London Proved in absence	£220 £175 costs (£175 requested)	Out of area
61	22/11/19	Gareth Turner Birmingham Proved in absence	£220 £175 costs (£175 requested)	Balsall Heath West
62	22/11/19	Grzegorz Zych Halesowen Proved in absence	£220 £175 costs (£175 requested)	Out of area

LITTERING OFFENCES – SINGLE JUSTICE PROCEDURE

Date Cases Heard	Total Number of Cases	Total Fines imposed	Total Costs awarded	Total Costs requested
8/11/19	49	£9,398	£7,600	£8,575
22/11/19	11	£1,986	£1,625	£1,925

ENVIRONMENTAL HEALTH SIMPLE CAUTIONS

During the period of November 2019 one simple caution was administered.

Food Safety and Hygiene (England) Regulations 2013

One caution was issued for failing to comply with Food Hygiene Regulations

LICENSING CASES

APPENDIX 2

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
63	4/11/19	Waseem Ali Khan Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded <u>not guilty</u> to two offences; one of plying for hire on John Bright Street, Birmingham and one of consequently having invalid insurance. Found guilty after trial.	£600 (£300 x 2) + 8 penalty points £400 costs (£400 requested)	Sparkhill	Ladywood
64	25/11/19	Nejib Ben Rabeh Falah Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded <u>not guilty</u> to two offences; one of plying for hire on High Street, Harborne, Birmingham and one of consequently having invalid insurance. Found guilty after trial.	£660 – no insurance + 6 penalty points No separate penalty for plying £750 costs (£1,568 requested)	Harborne	Harborne

LICENSING SIMPLE CAUTIONS

During the period of November 2019 eight simple cautions were administered.

Local Government (Miscellaneous Provisions) Act 1976

Section 48(6) Eight cautions were issued for failing to display a private hire vehicle licence plate

TRADING STANDARDS CASES

No Trading Standards cases were finalised during November 2019.

TRADING STANDARDS SIMPLE CAUTIONS

During the period of November 2019 no simple cautions were administered.

WASTE ENFORCEMENT CASES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
65	27/11/19	Peter John Johnson Rowley Regis	Environmental Protection Act 1990 Pleaded guilty to one offence of knowingly causing controlled waste, namely large items including car parts and refrigerators, to be deposited from a vehicle onto land at All Saints Street, Birmingham. Originally listed for trial	£40 £150 costs (£330 requested)	Out of area	Soho & Jewellery Quarter

WASTE ENFORCEMENT SIMPLE CAUTIONS

No simple cautions were administered during November 2019.

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – NOVEMBER 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	0	0	1	0	0	0	0	0	0	2
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	60	0	0	0	0	0	0	60
Environmental Health (including WEU)	0	1	0	0	1	0	1	0	0	0	0	3
Trading Standards	0	0	0	0	0	0	0	0	0	0	0	0

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – NOVEMBER 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	1	0	0	0	0	0	0	0	0	2
Environmental Health (FPNs) Not paid and prosecuted	4	5	1	4	8	1	0	1	0	1	35	60
Environmental Health (including WEU)	0	0	0	1	0	0	1	0	0	0	1	3
Trading Standards	0	0	0	0	0	0	0	0	0	0	0	0

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL-NOVEMBER 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	3	1	1	0	10	0	0	0	3	0	0	18
Environmental Health (FPNs) Not paid and prosecuted	0	1	0	0	359	0	0	0	0	0	0	460
Environmental Health (including WEU)	2	6	15	18	32	2	9	6	2	4	0	96
Trading Standards	0	0	0	2	4	1	5	0	1	3	0	16

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – APRIL-NOVEMBER 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	2	1	2	5	0	2	0	0	1	4	18
Environmental Health (FPNs) Not paid and prosecuted	30	24	22	30	55	16	32	15	4	20	212	460
Environmental Health (including WEU)	1	9	18	17	22	0	9	4	1	4	11	96
Trading Standards	0	0	1	2	1	1	5	1	1	3	1	16

**WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY
APRIL 2019 – MARCH 2020**

Waste Investigation Outcomes													
	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Total
Duty of care inspections into the waste disposal arrangements of commercial premises	64	97	93	94	92	83	127	123					773
Section 34 Environmental Protection Act demand notices issued:(trade waste statutory information demands)	37	59	64	51	45	50	76	60					442
Section 34 Environmental Protection Act Fixed Penalty Notices issued to businesses (£300)	7	9	39	37	10	36	39	25					202
Section 87 Environmental Protection Act Fixed Penalty notices issued for commercial and residential litter offences(£80)	0	0	0	0	0	0	0	0					0
Section 33 Environmental Protection Act Fixed penalty notices issued for fly tipping (£400)	4	7	4	7	4	10	6	8					11
Prosecutions													
Number of prosecution files submitted to legal services, (number produced quarterly).	13	10	35	9	9	7	13	11					107

BIRMINGHAM CITY COUNCIL**REPORT OF THE DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE****15 January 2020
ALL WARDS****OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
November 2019**

1. Summary
 - 1.1 This report advises the Committee of the outcomes of appeals against the Sub Committee's decisions which are made to the Magistrates' Court, and any subsequent appeals made to the Crown Court, and finalised in the period mentioned above.

2. Recommendation
 - 2.1 That the report be noted.

Contact Officer: Emma Rohomon, Acting Head of Licensing
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E-mail: Emma.Rohomon@birmingham.gov.uk

3. Summary of Appeal Hearings for November 2019

	Magistrates'	Crown
Total	4	
Allowed	1	
Dismissed	3	
Appeal lodged at Crown		
Upheld in part		
Withdrawn pre-Court		
Consent Order		

4. Implications for Resources

- 4.1 The details of costs requested and ordered in each case are set out in the appendix below.
- 4.2 In November 2019 costs have been requested to the sum of £750.00 so far with reimbursement of £250.00 so far (33.33%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2019 to November 2019, costs associated to appeal hearings have been requested to the sum of £13,247.45 so far with reimbursement of £11,301.45 so far (85.31%) ordered by the Courts.
- 4.4 For the fiscal year thus far, April 2019 to November 2019, costs contra Birmingham City Council associated to appeal hearings have been requested and awarded in excess of £60.00.

5. Implications for Policy Priorities

- 5.1 The contents of this report contribute to the priority action of providing an efficient and effective Licensing service to ensure the comfort and safety of those using licensed premises and vehicles.

6. Public Sector Equality Duty

- 6.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Regulation and Enforcement Division, which ensures that equality issues have been addressed.

7. Consultation

- 7.1 The Enforcement Policy that underpins the work identified in this report is approved by your Committee. The policy reflects the views of the public and the business community in terms of the regulatory duties of the Council. Any enforcement action taken as a result of the contents of this report is subject to that Enforcement Policy.

INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Prosecution files and computer records in Legal Proceedings team.

MAGISTRATES' COURT – PRIVATE HIRE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Adam Ali Ahmed	15.11.2019	Dismissed	£250.00	£250.00	The appeal was against the decision of the Sub Committee to revoke Mr Ahmed's private hire driver licence on 01.05.2019 following convictions for plying for hire and no insurance. Mr Ahmed was not in attendance, Birmingham Magistrates Court dismissed the appeal.
2	Mohammed Azeem	21.11.2019	Dismissed	£250.00	£0.00	The appeal was against the decision of the Sub Committee on 02.09.2019 to refuse to grant a private hire driver licence to Mr Azeem, owing to convictions recorded against him. Mr Azeem failed to attend so an application was made and granted for the appeal to be dismissed. No order was made as to costs.
3	Shabaz Ali	21.11.2019	Dismissed	£250.00	£0.00	The appeal was against the decisions of the Sub Committee on 17.09.2019 to refuse to grant a private hire driver licence to Mr Ali owing to convictions recorded against him. Mr Ali attended unrepresented however did call a Martin Humphries an old family acquaintance to give character evidence. On hearing submissions the magistrates determined to uphold the decision of the Sub Committee in view of the serious drug related convictions. They were not satisfied that the decision of the Sub Committee was wrong and dismissed the appeal. Costs were applied for in the sum of £250.00 however no order was made.

4	Abdul Shahen	21.11.2019	Allowed	£60.00 (Contra BCC)	£60.00 (Contra BCC)	<p>The appeal was against the decision of the Sub Committee to on 02.09.2019 to refuse to grant a private hire driver licence to Mr Shahen, owing to convictions recorded against him for plying for hire and no insurance. Mr Shahen attended unrepresented although had written a letter to the court in support of his appeal. The Magistrates on hearing submissions did however adjudicate that the Committees decision was wrong to refuse to grant a private hire licence .This was on the basis that the conviction was from January 2016 and four years nearly had lapsed since the commission of the plying for hire offence when the drivers licence had been revoked. Given that there were no other offences or convictions before or since they upheld the appeal. Mr Shahen applied for the cost of lodging the appeal to the court which was in the sum of £60.00 which the magistrates did not deem unreasonable and ordered that this be reimbursed to Mr Shahen.</p>
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BIRMINGHAM CITY COUNCIL**LICENSING AND PUBLIC PROTECTION COMMITTEE****15 JANUARY 2020****SCHEDULE OF OUTSTANDING MINUTES**

MINUTE NO./DATE	SUBJECT MATTER	COMMENTS
1231 23/10/2019	<u>Update Report On Unauthorised Encampments</u> – The Assistant Director of Regulation and Enforcement be requested to report further in three months' time to update on the various work items contained within the report.	February 2020

