

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C
Report of:	Interim Assistant Director of Regulation & Enforcement
Date of Meeting:	Wednesday 22nd January 2020
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	BBQ Village Chinese Restaurant T/A Tasty Restaurant, 55 Station Street, Birmingham B5 4DY
Ward affected:	Ladywood
Contact Officer:	Shaid Yasser, Senior Licensing Officer, 0121 303 9896, licensing@birmingham.gov.uk

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

2. Recommendation:
To consider and determine the review application.

3. Brief Summary of Report:
Review application received on 3 rd December 2019 from Birmingham City Council Licensing Enforcement in respect of BBQ Village Chinese Restaurant T/A Tasty Restaurant, 55 Station Street, Birmingham, B5 4DY. A representation has been received from West Midlands Police as a responsible authority.

4. Compliance Issues:
4.1 Consistency with relevant Council Policies, Plans or Strategies:
The report complies with the City Council's Statement of Licensing Policy and the Council's Corporate Plan to improve the standard of all licensed persons, premises and vehicles in the City.

5. Relevant background/chronology of key events:

<p>Birmingham City Council Licensing Enforcement applied on 3rd December 2019 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for BBQ Village Chinese Restaurant T/A Tasty Restaurant, 55 Station Street, Birmingham, B5 4DY.</p> <p>A representation has been received from West Midlands Police, as a responsible authority. See Appendix 1.</p> <p>Review application is attached at Appendix 2.</p> <p>The Premises Licence is attached at Appendix 3.</p> <p>Site location plans are attached at Appendix 4.</p> <p>When carrying out its licensing functions, a licensing authority must have regard to Birmingham City Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under s182 of the Licensing Act 2003.</p> <p>The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -</p> <ul style="list-style-type: none">a. The prevention of crime and disorder;b. Public safety;c. The prevention of public nuisance; andd. The protection of children from harm.

6. List of background documents:

<p>Copy of the representation as detailed in Appendix 1 Review Application Form, Appendix 2 Copy of Premises Licence, Appendix 3 Site location plans, Appendix 4</p>
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7. Options available

<p>Modify the conditions of Licence Exclude a Licensable activity from the scope of the Licence Remove the Designated Premises Supervisor Suspend the Licence for a period not exceeding 3 months Revoke the Licence No Action</p> <p>Where the authority takes a step to modify conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.</p>
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24/12/19
Entered JJ

From: Ben Reader
Sent: 24 December 2019 11:23
To: Licensing
Subject: BBQ Village Chinese Restaurant

Licensing,

This mail is in relation to the review application made by BCC in relation to

BBQ Village
55 Station Street
Birmingham
B5 4DY

WMP wish to make a representation about this premises and join this review.

The details of the review application give evidence of criminal activity taking place, namely employing illegal workers.

I have visited the premises on two occasions since the discovery of the illegal workers. The DPS and licence holder are long term away from the business, giving me significant concern that anyone is accountable for promoting the licensing objectives. The premises did not engage positively on the visits and no one appeared to be taking responsibility for managing the venue.

It appears that the current operators of the premises have no regard for the licensing objectives, causing WMP concern that bad practice will continue.

Regards

Ben

Police Constable 2413 Ben Reader
Licensing Department
Birmingham West Local Policing Unit
Police Headquarters,
Lloyd House,
Birmingham,
B4 6NQ

Twitter @brumlicensing

Preventing crime, protecting the public and helping those in need

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**✓ Birmingham City Council, PO Box 17013,
Birmingham, B6 9ES**

**Application for the review of a premises licence or club premises certificate under the
Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure
that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
You may wish to keep a copy of the completed form for your records.

I Gary Callaghan of Licensing Enforcement, Birmingham City Council

**apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the
premises described in Part 1 below**

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
BBQ Village Chinese Restaurant (Currently trading as Tasty Restaurant) 55, Station Street	
Post town Birmingham	Post code (if known) B5 4DY

Name of premises licence holder or club holding club premises certificate (if known)	BCC REGULATION & ENFORCEMENT LICENSING SECTION DATE RECEIVED
Mr Yang Cheng	
Number of premises licence or club premises certificate (if known)	- 3 DEC 2019
2344/3	
	REF NO <u>Entered</u>
	INITIALS _____

Part 2 – Applicant details

I am

Please tick X yes

1) an individual, body or business which is not a responsible
authority (please read guidance note 1, and complete (A)
or (B) below)

☐

2) a responsible authority (please complete (C) below)

☒

3) a member of the club to which this application relates
(please complete (A) below)

☐

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick X yes

Mr ☒ Mrs ☐ Miss ☐ Ms ☐ Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick X yes

☐

Current postal
address if
different from
premises
address

Post town

Post Code

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address

Licensing Section
PO Box 17013
Birmingham
B6 9ES

Telephone number (if any)

E-mail address (optional)

This application to review relates to the following licensing objective(s)

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes X

<input checked="checked" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

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

On the 6th November 2019 Acting on intelligence, Officers from the Licensing Enforcement, Home Office Immigration Enforcement and West Midlands Police visited BBQ Village Chinese Restaurant, 55, Station Street. Upon entry a number of people were observed working at the premises,

Immigration Enforcement Officers spoke to various individuals and checks were made to establish whether they had the required permission to work in the UK. 3 males and 2 females were subsequently detained at the scene for immigration breaches.

Further checks have been conducted by Home Office immigration and the immigration status of persons detained has been established:-

- Female has been identified as _____, (D.O.B _____) No address provided
- Male has been identified as _____, (D.O.B _____) No address provided
- Female has been identified as _____ (D.O.B _____) Residing at _____
- Male has been identified as _____ (D.O.B _____) No address provided
- male has been identified as _____ (D.O.B _____) Residing at _____

Guidance issued under section 182 of the Licensing Act 2003 regarding reviews arising in connection with crime states at:-

Para 11.27:-

There is certain criminal activity that may arise in connection with licensed Premises which should be treated particularly seriously. These matters include the use of the licensed premises:

- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;

Immigration, Asylum and Nationality Act 2006 - Section 21 states:-

(1) A person commits an offence if he employs another ("the employee") knowing that the employee is an adult subject to immigration control and that—

- (a) he has not been granted leave to enter or remain in the United Kingdom, or
- (b) his leave to enter or remain in the United Kingdom—
 - (i) is invalid,
 - (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or
 - (iii) is subject to a condition preventing him from accepting the employment.

Immigration Act 1971 – Section 25 states;-

Assisting unlawful immigration to member State

(1) A person commits an offence if he—

- (a) does an act which facilitates the commission of a breach or attempted breach of immigration law by an individual who is not a citizen of the European Union,**
- (b) knows or has reasonable cause for believing that the act facilitates the commission of a breach or attempted breach of immigration law by the individual, and**
- (c) Knows or has reasonable cause for believing that the individual is not a citizen of the European Union.**

This review application is being made on the grounds that an illegal workers have been identified working at BBQ Village Chinese Restaurant, 55, Station Street which amounts to criminal activity and seriously undermines the licensing objectives contained in the Licensing Act 2003 regarding:-

- The prevention of crime and disorder;

I therefore feel we should seek to get the Premises Licence revoked

Please provide as much information as possible to support the application (please read guidance note 3)

On Wednesday 6th November 2019 at 16:26 hours a joint visit was made to licensed premises trading as Tasty Restaurant, 55, Station Street, Birmingham, B5 4DY

Officers from the following Responsible Authorities supported this visit:-

- Home Office Immigration Enforcement;
- Licensing Enforcement.
- West Midlands Police

During the visit immigration officers spoke to a number of people working at the premises and identified 3 males and 2 females who were detained by immigration officers for possible immigration breaches. Subsequently investigations have established that all the persons detained were over stayers and they did not have the required permission to work in the UK.

From a Licensing Enforcement viewpoint the owner of the Premises Licence Mr. YANG CHENG was not present or contactable, no staff members present would own up to being in charge, they were uncooperative and unhelpful stating that they are only workers they did not know anything. A male identified as WAI CHUNG CHENG who appeared in charge (even though he said kitchen staff had keys to open & close restaurant) was unable to produce the "Premises Licence" and advised he did not know where it is kept and was not aware of the attached conditions of licence, WAI CHUNG CHENG advised that YANG CHENG was still in control of the business, but he was out of the country. I was informed he did not know who had authorised the sale of alcohol, WAI CHUNG CHENG advised me that he was a personal licence holder, but was unable to produce his personal licence identity card on request. I was informed that he did not have YANG CHENG contact details. Therefore I was unable to check if the premises were compliant with the conditions of licence. I left my contact details with a female who identified herself as CHAOGIN ZHAO requesting that YANG CHENG contact me as soon as possible. I have had no contact from YANG CHENG

On the 18th November 2019 at 14:00pm in-company with Licensing Enforcement Officer Shaid Ali and West Midlands Police Officer 2413 Ben Reader we visited Tasty Restaurant, 55, Station Street, Birmingham, B5 4DY. I spoke to WAI CHUNG CHENG who advised he was in charge, I asked him if he was able to produce the "Premises Licence" and was informed no, PC Reader asked when was the last time YANG CHENG had been at the premises, WAI CHUNG CHENG said "he had not been there for years, we don't contact him he contacts us" I asked him if the premises had CCTV as per the conditions of licence and was advised "has not been there for years"

From visits and findings it would appear the YANG CHENG has lost control of the running of the business, and has not left a responsible person in charge in his absence. YANG CHENG is not taking his responsibilities seriously and not promoting the licensing objectives, as such I have no confidence in him as the Premises Licence Holder and Designated Premises Supervisor.

Home Office Immigration civil penalty team has served a Notice of Potential Liability on YANG CHENG being the business owner, (which could result in fines up to £20,000 per person illegally working)

It is an offence under Immigration, Asylum and Nationality Act 2006 to knowingly employ a person if the employee has not been granted leave to enter or remain in the UK.

It is a further offence under Section 25 Immigration Act 1971 to do anything to facilitate another person's illegal entry, transit or stay in the UK.

All employers have a duty to prevent illegal working, and a responsibility to conduct relevant document checks to ensure they only recruit people who have permission to lawfully work in the UK.

Where a licence holder / business owner is prepared to employ illegal workers they are not only committing offences but are also actively involved in criminal activity and the exploitation of extremely desperate and vulnerable individuals for financial gain.

- Illegal workers have no employment rights or protections and are unable to declare themselves to the authorities to seek assistance should they require any assistance.
- Illegal workers have no rights to be paid the equivalent of the minimum wage which benefits the employer financially.
- Illegal workers are often paid 'cash in hand' by the employer meaning the correct tax and national insurance deductions are not taken into account, and therefore not declared to HMRC.
- Illegal workers are often provided with the most basic accommodation and standard of living which may be linked to their continued employment at the licensed premises.
- Illegal entrants into the UK will not have been subject to the usual immigration checks and health screenings and this could seriously impact on public protection and the health and wellbeing of the general public, especially where illegal entrants have arrived from a country with significant health risks. The employment of such individuals poses on an increased risk especially if that person is employed in a kitchen, or an area where food is prepared or served to the public.
- Illegal entrants also do not undergo any appropriate checks, or immigration clearance at the border and may have current or previous criminal convictions and thereby pose a danger for the general public.

During the inspection the following matters were identified contrary to Licensing Act 2003.

- Section 57 (7) failure to produce the premises licence or certified copy for inspection to authorised officer on request
- Section 136 Carrying on licensable activities other than in accordance with an authorisation
- As and when necessary or judged appropriate, the Licensee and/or staff shall liaise with the Police so as to promote the prevention of Crime and Disorder
- No CCTV system in place on the premises

The Licensing Act 2003 is clearly intended to prevent crime and disorder in relation to premises, as well as deter and prevent unscrupulous persons from operating illegally under the authorisation of a premises licence.

Employing illegal workers has far reaching harmful social and economic effects within the UK. It enables dishonest employers to take advantage and exploit extremely desperate and vulnerable individuals for financial profit and to gain an unfair advantage over competitors who operate legally and comply within the laws of the United Kingdom.

Other relevant information; It has come to my attention that Tasty Restaurant 55, Station Street, Birmingham, B5 4DY is currently liable for non domestic business rates debt.

- a) Basement - £80,439.04
- b) Ground Floor - £76,539.16

Please tick X yes

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

☐

If yes please state the date of that application

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

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

N/A

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) Birmingham City Council Licensing Section PO Box 17013	
Post town Birmingham	Post Code B6 9ES
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

Please tick X yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date

3rd December 2019

Capacity **Licensing Enforcement, Birmingham City Council**

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Birmingham City Council Licensing Section PO Box 17013	
Post town Birmingham	Post Code B6 9ES
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
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LICENSING ACT 2003PREMISES LICENCE

Premises Licence Number:

2344 / 3

Part 1 - Premises details:**Postal address of premises, or if none, ordnance survey map reference or description**BBQ Village Chinese Restaurant
55 Station Street**Post town:**

Birmingham

Post Code:

B5 4DY

Telephone Number:**Where the licence is time limited the dates**

N/A

Licensable activities authorised by the licence

F	Recorded music
L	Late night refreshment
M1	Sale of alcohol by retail (on the premises)

The times the licence authorises the carrying out of licensable activities

Monday – Friday	17:30	-	03:00	F,M1
	23:00	-	01:00	L
Saturday – Sunday	17:30	-	04:00	F,M1
	23:00	-	03:00	L

The opening hours of the premises

Monday – Friday	17:30	-	03:00
Saturday – Sunday	17:30	-	04:00

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

On Supplies

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Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Mr Yang Cheng	
Post town:	Post Code:
Telephone Number:	
Email N/A	

Registered number of holder for example company number or charity number (where applicable) N/A

Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Yang Cheng	
Post town:	Post Code:
Telephone Number: None Specified	

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol	
Licence Number WDC PER 00575	Issuing Authority WARWICK DISTRICT COUNCIL

Dated 10/06/2008

David Kennedy
Senior Licensing Officer
For Senior Assistant Director, Regulatory Services

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Annex 1 – Mandatory Conditions

No supply of alcohol may be made under the premises licence (a) at a time when there is no designated premises supervisor in respect of the premises licence, or (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

There was no application to remove any of the embedded restrictions applicable to this licence under the old licensing regime. Those embedded restrictions are detailed below. Licensable activities may continue beyond the times specified in the embedded restrictions up to the times the premises licence authorises the carrying out of licensable activities.

Permitted hours - Alcohol may be sold or supplied: (1) On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 11am to 12pm. (2) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12 noon to 11:30pm (3) On Christmas Day: 12 noon to 11:30pm; (4) On New Year's Eve, except on a Sunday, 11 am. to midnight; (5) On New Year's Eve on a Sunday, 12 noon to 11.30 pm. (6) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day, which would be 11.00 am. if New Year's Day falls on a weekday or 12 noon if a Sunday.

Alcohol shall not be sold or supplied: (a) unless the premises have been structurally and bona fide used, or intended to be used, for the purposes of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises; (b) on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his meal.

Alcohol shall not be sold or supplied unless suitable beverages other than alcohol (including drinking water) are equally available for consumption with or otherwise as an ancillary to meals served in the premises.

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Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

The provision of regulated entertainment and late night refreshment to take place indoors only.

No adult entertainment or services permitted on the premises.

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

Staff refuse to sell alcohol to under age persons and anyone who appears to be drunk.

Excessive drinking is discouraged.

Staff are trained to remain calm and not react to provocation.

Staff are vigilant about the possible misuse of the premises for drug dealings.

As and when necessary or judged appropriate, the Licensee and/or staff shall liaise with the Police so as to promote the Prevention of Crime and Disorder.

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

Anti-social and destructive behaviour is discouraged.

'Happy hours' are not permitted under the authority of this licence.

First Aid is available on the premises.

Patrons are prevented from carrying out glasses and bottles from the premises.

Where appropriate age restrictions are in place, including age verification checks.

A C.C.T.V. system is in place on the premises.

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

All staff behave, responsibly.

Service is refused to persons under age and anyone who appears to be drunk.

Any destructive or noisy behaviour is discouraged and, if appropriate, reported to the Police.

Any suspicious activity (i.e. drug dealings in the proximity of the premises) is reported to the Police.

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

Persons under the age of 14 are not permitted in the area of the Bar.

The Licensee shall ensure that, if appropriate, age verification checks are carried out.

Persons under the age of 18 are prohibited from purchasing alcohol or working behind the bar.

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Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

N/A

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

N/A

3c) Committee conditions to promote public safety

N/A

3d) Committee conditions to promote the prevention of public nuisance

N/A

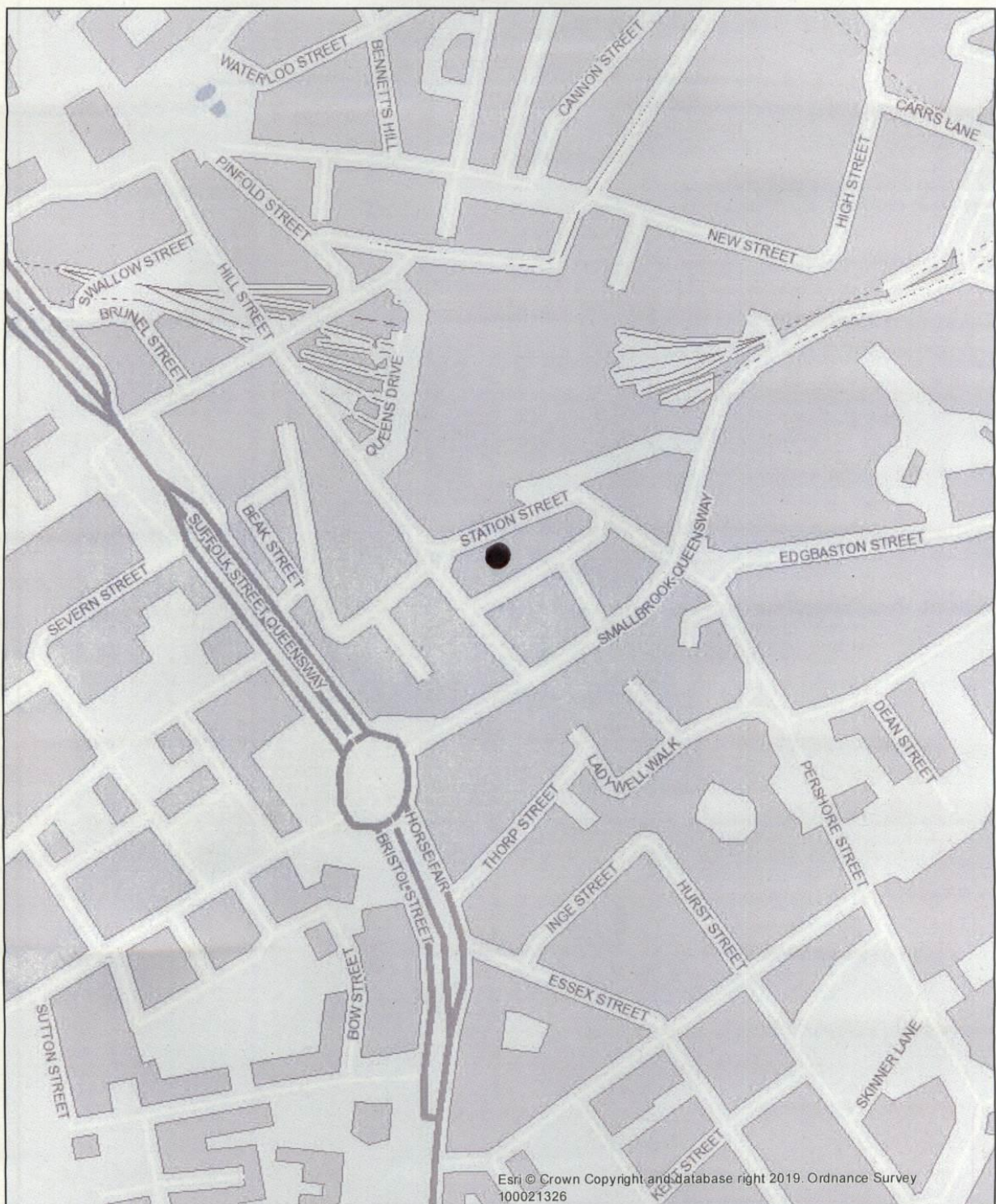
3e) Committee conditions to promote the protection of children from harm

N/A

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Annex 4 – Plans

The plan of the premises with reference number **54884-2344/3** which is retained with the public register kept by Birmingham City Council and available free of charge for inspection between the hours of 9am – 4pm Monday, Tuesday and Thursday, 10am – 4pm Wednesday and 9am – 3.30pm Friday (excluding Bank Holidays etc) at the Licensing Service, Crystal Court, Aston Cross Business Village, 50 Rocky Lane, Aston, Birmingham B6 5RQ.



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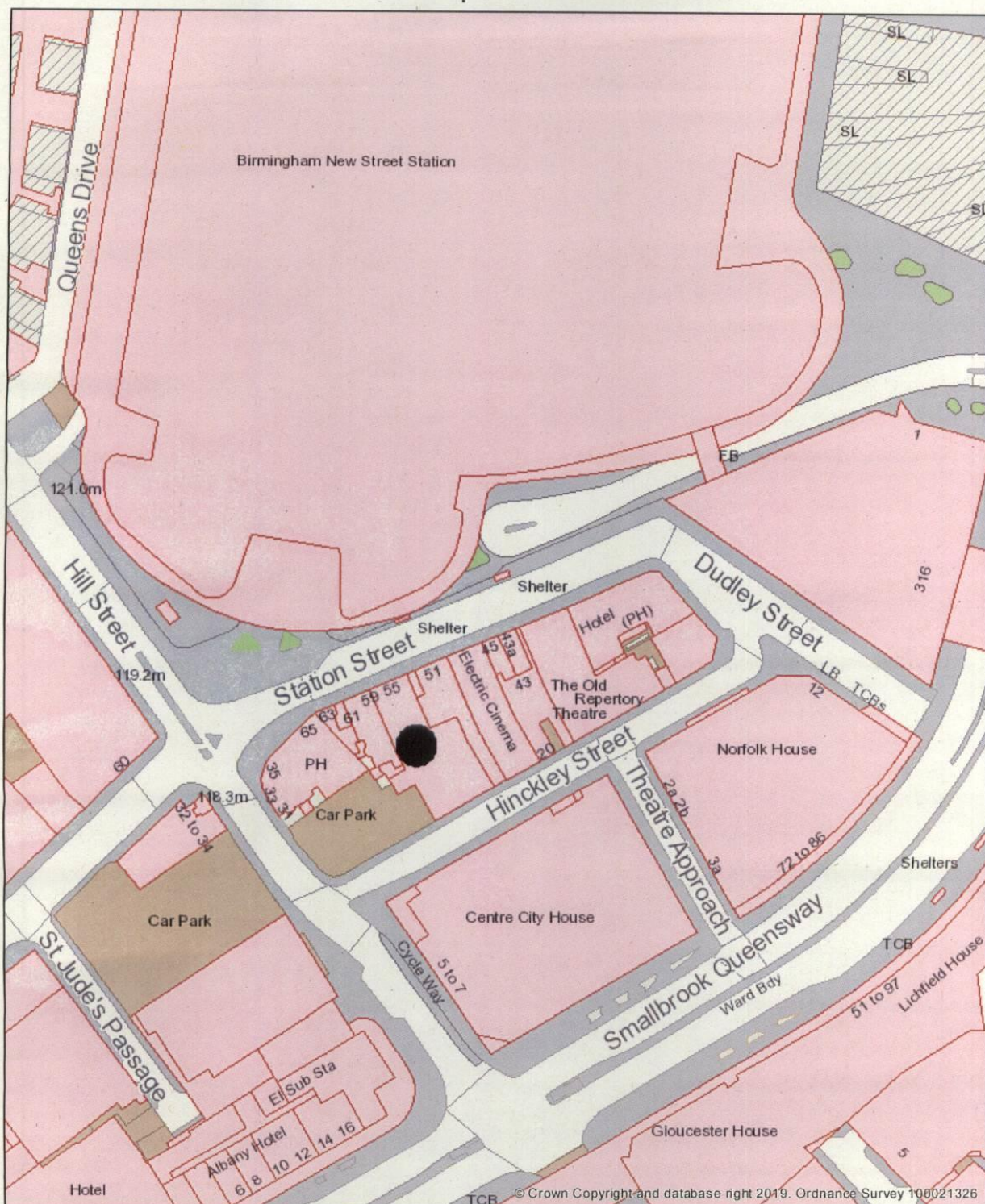
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Date of Map Creation: 23/12/2019

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Scale: 1:4,000





Birmingham
City Council

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