

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee B
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Tuesday 22nd January 2019
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	Drinks R Us, 3 Little Bromwich Road, Bordesley Green, Birmingham, B9 5JU
Ward affected:	Heartlands
Contact Officer:	Bhapinder Nandhra, 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 27 th November 2018 from the Chief Inspector of Weights and Measures in respect of Drinks R Us, 3 Little Bromwich Road, Bordesley Green, Birmingham, B9 5JU. 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>The Chief Inspector of Weights and Measures applied on 27th November 2018 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for Drinks R Us, 3 Little Bromwich Road, Bordesley Green, Birmingham, B9 5JU.</p> <p>A representation has been received from West Midlands Police, as a responsible authority, which is attached at Appendix 1.</p> <p>Review application is attached, see Appendix 2.</p> <p>The Premises Licence is attached at Appendix 3.</p> <p>Site location plans are attached at Appendix 4.</p> <p>When carrying out its licensing functions, a licensing authority must have regard to Birmingham City Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under s182 of the Licensing Act 2003.</p> <p>The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -</p> <ul style="list-style-type: none">a. The prevention of crime and disorder;b. Public safety;c. The prevention of public nuisance; andd. The protection of children from harm.

6. List of background documents:

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

7. Options available

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

From: Abdool Rohomon -
Sent: 30 November 2018 10:47
To: Licensing
Cc: Paul Ellson
Subject: Review application - Drinks R Us, 3 Little Bromwich Road, Birmingham

Dear Licensing

West Midlands Police have received the review application under section 51 of the Licensing Act 2003, against Drinks R Us, 3 Little Bromwich Road, Birmingham. The review application has been issued by Birmingham City Council Chief Inspector of Weights and Measures.

Having reviewed this application West Midlands Police wish to support The Chief Inspector of Weights and Measures and join in the representations against Drinks R Us, 3 Little Bromwich Road, Birmingham. Looking at the circumstances of the review application it is clear that the premise licence holder has no regard to the promotion of the licensing objectives, and is more concerned with making as much profit as possible.

The premises have had two visits just over a year apart. On the first inspection on the 1st August 2017 193 bottles of suspected illicit non-duty paid were seized as well as a quantity of illegal packaged cigarettes. This alone is a very serious incident and on its own merits is worthy of the premises being reviewed. Having been caught out a first time, it could easily be expected of a professional licence holder that they would have learnt their lesson and not do it again.

However on a further visit on the 18th September 2018 a further 54 bottles of suspect illicit non-duty paid alcohol was seized from the premises.

The trade in illicit non-duty paid alcohol is a serious crime, conducted by serious organised crime groups who use it to fund their operations. In a report from HMRC in 2016 it was estimated that the illegal trade cost the treasury £2.7billion in lost revenues in alcohol and tobacco sales. This shows the scale of the problem. In an article from April 2018 the Association of convenience stores has even gone as far to ask for tougher penalties to be used against premises that sell illicit, non-duty paid goods.

Non duty paid goods are meant for distribution outside the UK, and therefore exempt from Duty being paid on them. The duty payable is variant to the strength of the product but still adds to a considerable amount, shops that get such goods are then able to sell them at lower than normal prices, to attract more customers, as well as generate more profit for themselves.

The Section 182 guidance within the Licensing act 2003 is very clear around the expectation of licensing committees where premises are associated with serious crime. Sec 11.27 relates to a number of serious offences which if a licensed premises is associated with then even at the first review the licensing authority should seriously consider revocation of the licence. One of those offences is the sale or storage of smuggles tobacco or alcohol. This is not the first time that these premises have been caught selling smuggled non duty paid goods and so the recommendations of West Midlands Police is that the licence be revoked.

West Midlands Police therefore wish these representations to be heard at the review hearing and wish to attend

Kind regards

Abs Rohomon

PC 4075 Rohomon
BW Licensing
Police headquarters

Drinks R Us, 3 Little Bromwich Road, Birmingham, B9 5JU

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

You may wish to keep a copy of the completed form for your records.

I Paul Ellison (on behalf of Donna Bensley Chief Inspector of Weights & Measures)

(Insert name of applicant)

apply for the review of a premises licence under section 51/apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details; DRINKS R US

Postal address of premises or, if none, Ordnance Survey map reference or description	
3 Little Bromwich Road Bordesley Green	
Post town BIRMINGHAM	Post code (if known) B9 5JU

Name of premises licence holder or club holding club premises certificate (if known)
Mr Gurdev Singh KHAKH

Number of premises licence or club premises certificate - 822
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Part 2 - Applicant details

I am

BCC REGULATION & ENFORCEMENT LICENSING SECTION DATE RECEIVED 27 NOV 2018 REF NO INITIALS
--

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below) ☐
- 2) a responsible authority (please complete (C) below) **yes**
✓
- 3) a member of the club to which this application relates (please complete (A) below) ☐

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

Please tick ✓ yes

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

Surname

First names

I am 18 years old or over

Please tick ✓ 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; Paul Ellson, Enforcement Officer for and on behalf of Donna Bensley Chief Inspector of Weights & Measures. Birmingham City Council Trading Standards PO Box 16586 Birmingham B33 3EH In all correspondence please quote our reference: 8747480
Telephone number (if any)
E-mail address (optional)

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

- | | Please tick one or more boxes |
|---|-------------------------------|
| 1) the prevention of crime and disorder | yes |
| 2) public safety | yes |
| 3) the prevention of public nuisance | yes |
| 4) the protection of children from harm | yes |

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

In June 2017 Birmingham Trading Standards Service received a complaint from a member of the public that the premises known as Drinks R Us, 3 Little Bromwich Road, Bordesley Green, Birmingham, B9 5JU was selling cigarettes in packets of 10 which is illegal under the Tobacco & Related Products Regulations 2016.

This regulation brought in minimum quantity requirements for packets of cigarettes supplied to the public; it came into force 20 May 2017.

On 1 August 2017, Enforcement Officer Paul Ellson visited the premises to follow up the complaint. Officer Ellson spoke with the assistant who said was the wife of the Licence Holder who was asleep upstairs. Officer Ellson carried out an inspection of the tobacco products. During examination of the cigarettes Officer Ellson found 9 packets of Silk Cut cigarettes containing 10 cigarettes; these were illegal to be supplied; Mr Khakh voluntary the cigarettes.

While collecting the cigarettes from the display gantry Officer Ellson then noticed that the 1 litre High Commissioner Whisky on the top shelf next to the tobacco gantry appeared to be illicit, that is with a counterfeit back label .

In view of this Officer Ellson continued to check stock. Further products were found that were considered to be illicit.

There was also a quantity Glens Vodka on the shelves for sale, both 70 cl and 1 litre which had the labelling in various states of dishevelment and shoddiness. Various other brands were found in the retail shop area and the stockroom that indicated that the Exercise duty was not paid, this included Teachers Whisky, Woods Rum, Bacardi Rum, Bells Whisky and various gins and distilled spirits.

They all had missing duty stamps or the duty stamp had been interfered with.

Further illegally packaged cigarettes were also seized, totally 19 packs from. Of more concern from a public nuisance point of view and child protection, two opened 35 cl bottles of vodka, a half full bottle cola drink and a quantity of plastic cups were found by the counter. This would indicate that cups of vodka have been sold to the public direct from behind the counter.

The items seized on that day were:

- 1 88 Bottles of 1 litre High Commissioner Whisky(on shelf some hidden behind other bottles)
- 2 26 Bottles of 70 cl Glens Vodka(on shelf)
- 3 16 Bottles of 1 litre Teacher Whisky(on shelf)
- 4 12 Bottles of 70 cl Berkeley Spirit (unknown spirit 30%)
- 5 2 Bottles of Larious gin(on shelf)
- 6 2 Bottles of Woods Rum(on shelf)
- 7 9 Bottles of Circoc(on shelf)
- 8 4 Bottles of Napoleon Mandarin Brandy(on shelf)

- 9 5 Bottles of Bacardi Rum
- 10 5 Bottles of 1 litre Glens Vodka
- 11 6 Bottles of 70 cl Bells Whisky (from the stockroom)
- 12 Street drink pack 2 Bottles of 35 cl vodka, cola drink and plastic cups. (Open)

- 13 Cigarettes
 - a) 15 x Bright Leaf Cigarettes
 - b) 4 x Royal Cigarettes
 - c) 1 x Marlboro Cigarettes
- 14 20 Bottles of 70 cl High Commission Whisky (on shelf and in stockroom)

A revisit was undertaken on the 18 September 2018. Officer Ellson accompanied by Trading Standards Officer Martin Williams carried out a full inspection following the issue of a Search Notice to Mr Khakh. A further amount of stock was found and considered to be illicit as the duty labels appeared to be counterfeit. They were seized from the retail area and the stock room.

- 1. 11 Bottles of 70 cl Glens Vodka (Shop)
- 2. 12 bottles of 1 litre Glens Vodka (Shop)
- 3. 20 Bottles of 70 cl Glen Vodka (stock room)
- 4. 1 Bottle of Berkeley Spirit (unknown spirit)
- 5. 1 x bottle of High Commission Whisky

These items will be subject to examination by the manufacturer in due course, but it is suspected that the items are again illicit (non-duty paid) items that is with counterfeit back labels

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

On the 1 August 2017 193 bottles of suspected illicit non-duty alcohol were found on the premises along with a quantity of illegally packaged cigarettes. All bottles of spirits were scattered throughout the shop and the stock area.

On the 18 September 2018 a further 54 bottles of suspect illicit non-duty paid alcohol were seized from the same premises. Alcohol spirit with tampered, altered or counterfeit duty stamps imply that the alcohol can be sold in the UK when in fact this is not the case. Originally intended for export they cannot be purchased by any legal means in the UK, and can only be supplied by illegal sources.

The products were intended to be sold abroad as no UK duty has been paid on them and they have been diverted into this country by some illicit means at best through smuggling routes if not by other illegal means. Much of this is done by organised criminal gangs who pay no tax on the products and undermine legitimate trade in the process.

More often than not the trade is by means of cash only transactions with no traceability of where products have been obtained from, which makes it impossible to trace the source in case of problems with the products contents. There is a requirement on retailers to be able to trace the provenance of food products they supply.

Those buying such items are well aware that such products may present problems as the products will be supplied to them by illegitimate means and as they are passing them on to members of the public they should act more responsibly.

When there have been scares about unsafe spirits being supplied that are injurious to public health it is always when they are illicit products, such as the ones found at these premises. Although none of the products found were injurious to health on this occasion.

Where these items came from it anyone's guess. Buying these items from anyone other than an authorised wholesaler should automatically alert the Licence holder that the products are of a dubious origin and/or illegal in nature. Such "under the counter" or "off a back of a lorry" transactions are unlikely to have gone through its books of the business.

The activities of the licence holder not only contribute to potential health issues around alcohol (not knowing the provenance) and tobacco misuse but selling illegal products undermines legitimate traders who operate within the law.

Due to the quantities found and the mix of illegal products the committee is asked to consider a revocation of the licence.

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

no

If yes please state the date of that application

Day		Month		Year	
<div></div>	<div></div>	<div></div>	<div></div>	<div></div>	<div></div>

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

N/A

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate **yes**

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature Paul A. Egan

Date 19/11/18

Capacity for and on behalf of Donna Bensley Chief Inspector of Weights & Measures Paul A. Egan

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) (see details in section C)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003PREMISES LICENCE

Premises Licence Number:

822

Part 1 - Premises details:**Postal address of premises, or if none, ordnance survey map reference or description**Drinks R Us
3 Little Bromwich Road**Post town:**

Birmingham

Post Code:

B9 5JU

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

N/A

Licensable activities authorised by the licence

M2 Sale of alcohol by retail (off the Premises)

The times the licence authorises the carrying out of licensable activities

Monday – Saturday	08:00	-	23:00	M2
Sunday	10:00	-	22:30	M2
Good Friday	08:00	-	22:30	M2
Christmas Day	12:00	-	15:00	M2
	19:00	-	22:30	M2

The opening hours of the premises

Not Specified

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

Off Supplies

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Part 2

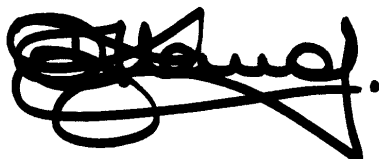
Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Mr Gurdev Singh Khakh	
Post town:	Post Code:
Telephone Number:	
Email N/A	

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

Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Mr Gurdev Singh Khakh	
Post town:	Post Code:
Telephone Number:	

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 1238	Issuing Authority Birmingham City Council

Dated 06/11/2005



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.

Embedded Restrictions

Alcohol shall not be sold or supplied except during permitted hours. In this condition, permitted hours means: a. On weekdays, other than Christmas Day, 8 am. to 11 pm. b. On Sundays, other than Christmas Day, 10 am. to 10.30 pm. c. On Christmas Day, 12 noon to 3 pm. and 7 pm. to 10.30 pm. d. On Good Friday, 8 am. to 10.30 p.m. The above restrictions do not prohibit: (a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel; (b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered; (c) the sale of alcohol to a trader or club for the purposes of the trade or club; (d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

Alcohol shall not be sold in an open container or be consumed in the licensed premises.

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Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

No enforceable conditions identified from operating schedule.

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

No enforceable conditions identified from operating schedule.

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

No enforceable conditions identified from operating schedule.

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

No enforceable conditions identified from operating schedule.

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

No enforceable conditions identified from operating schedule.

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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 **31139-822/1** 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.



Birmingham City Council Map Created By:

Date of Map Creation: 27/11/2018

Notes

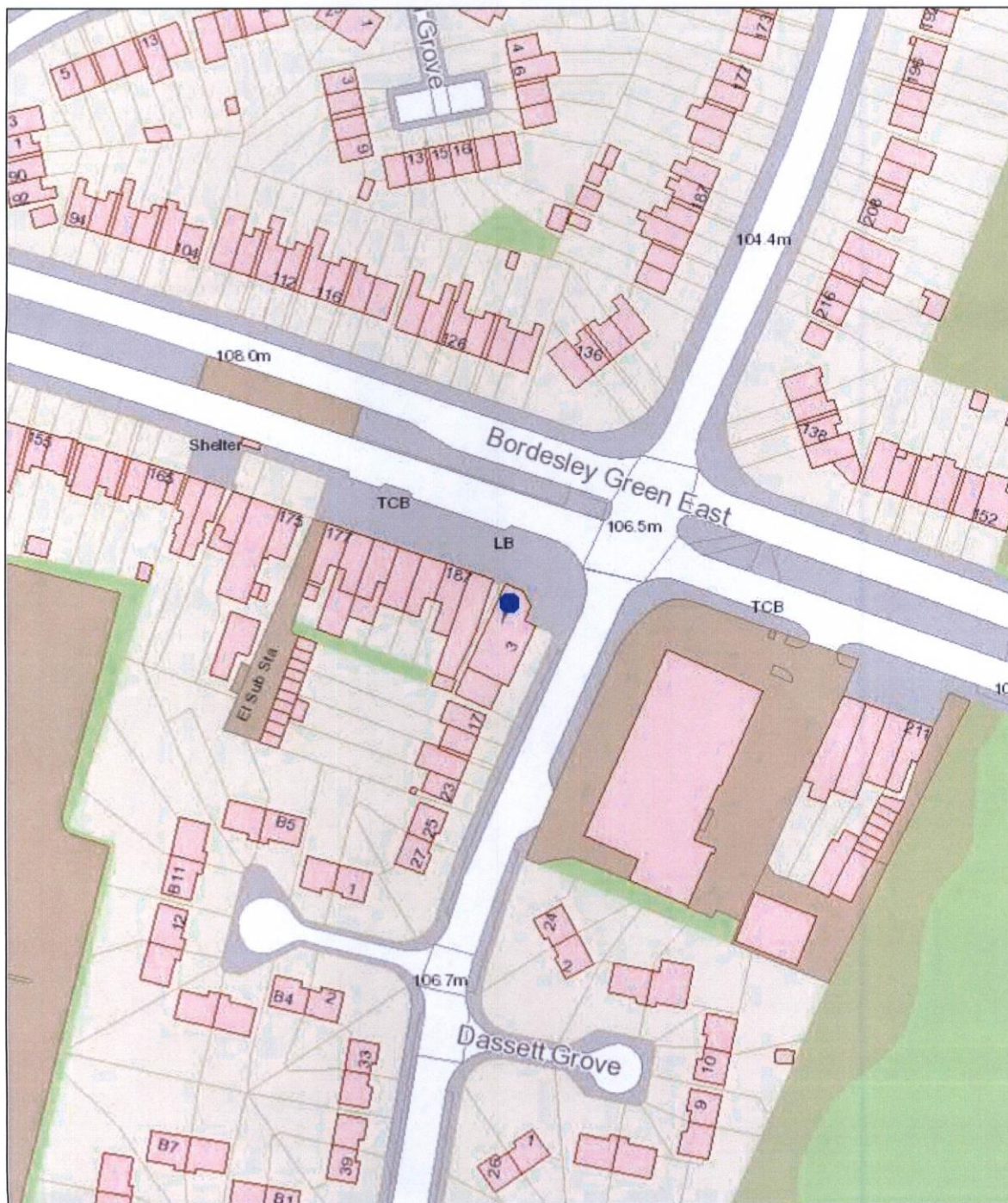


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Birmingham City Council

Map Created By:

Notes

Date of Map Creation: 27/11/2018



Scale:
1:1,250

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