

# BIRMINGHAM CITY COUNCIL

## PUBLIC REPORT

<b>Report to:</b>	<b>Licensing Sub Committee B</b>
<b>Report of:</b>	<b>Acting Director of Regulation &amp; Enforcement</b>
<b>Date of Meeting:</b>	<b>Tuesday 14<sup>th</sup> February 2017</b>
<b>Subject:</b>	<b>Licensing Act 2003 Premises Licence – Transfer</b>
<b>Premises</b>	<b>International Supermarket, 117 Villa Road, Handsworth, Birmingham, B19 1NH</b>
<b>Ward affected:</b>	<b>Lozells and East Handsworth</b>
<b>Contact Officer</b>	<b>David Kennedy, Principal Licensing Officer 0121 303 9896 <a href="mailto:licensing@birmingham.gov.uk">licensing@birmingham.gov.uk</a></b>

### **1. Purpose of report:**

To consider an application to Transfer a Premises Licence.

### **2. Recommendation:**

To consider and determine the Transfer Application.

### **3. Brief Summary of Report:**

A transfer application was received on 4<sup>th</sup> January 2017 in respect of International Supermarket, 117 Villa Road, Birmingham, B19 1NH.

An objection notice to this application has been received from West Midlands Police.

### **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.

<p><b>5. Relevant background/chronology of key events:</b></p> <p>An application to transfer a premises licence was received from Girmay Sibhatu on 4<sup>th</sup> January 2017 in respect of International Supermarket, 117 Villa Road, Birmingham, B19 1NH. Consent to transfer the licence was received from Najibullah Asakzai.</p> <p>As the application sought to have immediate effect since the time of the application, Girmay Sibhatu has been responsible for the provision of licensable activities at the premises, pending the determination of the transfer application by this Sub Committee.</p> <p>In line with statutory requirements the application was served on West Midlands Police who have subsequently given an objection notice to the transfer application on the basis that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective under the Licensing Act 2003.</p> <p>The premises licence was subject to a review application submitted by the Chief Inspector of Weights and Measures. The review application was the subject of a separate report presented to Licensing Sub Committee B on the 24<sup>th</sup> January 2017 following which the Sub Committee resolved to revoke the premises licence.</p> <p>Girmay Sibhatu's transfer application is attached, see Appendix 1.</p> <p>West Midlands Police Notice of objection is attached at Appendix 2.</p> <p>The current 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>When holding a hearing to consider an objection notice under s44 (5) a licensing authority is confined to consideration of the crime prevention objective in the Licensing Act 2003. Members must therefore only consider matters that relate to the crime prevention objective.</p>
<p><b>6. List of background documents:</b></p> <p>Transfer Application form, Appendix 1  West Midlands Police Objection, Appendix 2  Current Premises Licence, Appendix 3  Site location Plans, Appendix 4</p>
<p><b>7. Options available</b></p> <p>To Grant the transfer application  To Reject the transfer application</p>

## Appendix 1

### Application to transfer premises licence to be granted 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/We **I, GIRMAY WOLDEAB SIBHATU.**

(Insert name of applicant)

apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

4571

#### Part 1 - Premises details

Postal address of premises or, if none, ordnance survey map reference or description <b>INTERNATIONAL SUPERMARKET, 117, VILLA ROAD, HANDSWORTH, BIRMINGHAM.</b>	
Post town <b>HANDSWORTH</b>	Post code <b>B19 1NH</b>
Telephone number at premises (if any)	

Please give a brief description of the premises  
**PREMISES ARE AN EXISTING OFF - LICENCE AND MULTI - NATIONAL  
CONVENIENCE STORE. THEY ARE SITUATED IN A TERRACE BLOCK, ON A  
MAIN ROAD AND BUS ROUTE ON THE OUTSKIRTS OF HANDSWORTH. THE  
AREA IS BOTH RESIDENTIAL AND RETAIL. THERE IS A LIMITED STREET  
PARKING FOR CUSTOMERS AND FURTHER CAR PARKING NEARBY.**

Name of current premises licence holder  
**NAJIBULLAH ASAKZAI**

#### Part 2 - Applicant details

In what capacity are you applying for the premises licence to be transferred to you?

a) an individual or individuals\*

Please tick ☒ yes

☒ please complete section (A)

b) a person other than an individual \*

i. as a limited company

☐ please complete section (B)

ii. as a partnership

iii. as an unincorporated association or

<input type="checkbox"/> please complete section (B)
<b>REGULATION &amp; ENFORCEMENT</b>
<input type="checkbox"/> please complete section (B)
<b>LICENSING SECTION</b>
<b>DATE RECEIVED</b>
<b>4 JAN 2017</b>
REF NO <b>003236 E46</b>
INITIALS <b>a</b>

- iv. other (for example a statutory corporation) ☐ please complete section (B)
- c) a recognised club ☐ please complete section (B)
- d) a charity ☐ please complete section (B)
- e) the proprietor of an educational establishment ☐ please complete section (B)
- f) a health service body ☐ please complete section (B)
- g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales ☐ please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in respect of an independent hospital in England ☐ please complete section (B)
- h) the chief officer of police of a police force in England and Wales ☐ please complete section (B)

\*If you are applying as a person described in (a) or (b) please confirm:

Please tick ☒ yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or ☒
- I am making the application pursuant to a
  - statutory function or ☐
  - a function discharged by virtue of Her Majesty's prerogative ☐

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

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

**Surname**

SIBHATU

**First names**

GIRMAY WOLDEAB

**I am 18 years old or over**

Please tick ☒ yes

☒

**Current postal address if different from premises address**

Post town	<input type="text"/>	Post code	<input type="text"/>
Daytime contact telephone number		<input type="text"/>	
E-mail address (optional)	<input type="text"/>		

**SECOND INDIVIDUAL APPLICANT** (fill in as applicable)

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

Surname	First names
<input type="text"/>	<input type="text"/>

I am 18 years old or over ☐ Please tick ☒ yes

Current postal address if different from premises address	<input type="text"/>
---	----------------------

Post town	<input type="text"/>	Post code	<input type="text"/>
-----------	----------------------	-----------	----------------------

Daytime contact telephone number	<input type="text"/>
----------------------------------	----------------------

E-mail address (optional)	<input type="text"/>
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**(B) OTHER APPLICANTS**

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name	<input type="text"/>
------	----------------------

Address N/A
Registered number (where applicable) N/A
Description of applicant (for example partnership, company, unincorporated association etc.) N/A
Telephone number (if any) N/A
E-mail address (optional) N/A

**Part 3**

Please tick ☒ yes

Are you the holder of the premises licence under an interim authority notice? ☐

Do you wish the transfer to have immediate effect? ☒

If not when would you like the transfer to take effect?

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

Please tick ☒ yes

I have enclosed the consent form signed by the existing premises licence holder ☒

<p>If you have not enclosed the consent form referred to above please give the reasons why not. What steps have you taken to try and obtain the consent?</p> <p>N/A</p>
---

Please tick ☒ yes

If this application is granted I would be in a position to use the premises during the ☒

application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003)

Please tick ☒ yes

I have enclosed the premises licence

☒

If you have not enclosed premises licence referred to above please give the reasons why not.  
N/A

- I have made or enclosed payment of the fee ☒
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed ☒
- I have enclosed the premises licence or relevant part of it or explanation ☒
- I have sent a copy of this application to the chief officer of police today ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 4 – Signatures** (please read guidance note 2)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 3). If signing on behalf of the applicant please state in what capacity.

Signature

Date 3<sup>RD</sup> JANUARY 2017

Capacity AUTHORISED AGENT FOR THE APPLICANT

**For joint applicants signature of second applicant, second applicant's solicitor or other authorised agent (please read guidance note 4). If signing on behalf of the applicant please state in what capacity.**

Signature

Date

Capacity

<b>Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)</b> <b>LICENSED TRADE LEGAL SERVICES LIMITED,</b> <b>REGENT HOUSE,</b> <b>BATH AVENUE,</b> <b>WOLVERHAMPTON,</b> <b>WEST MIDLANDS.</b>	
<b>Post town</b> <b>WOLVERHAMPTON</b>	<b>Post Code</b> <b>WV1 4EG</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you by e-mail your e-mail address (optional)</b> <b>N/A</b>	

**Notes for Guidance**

1. Describe the premises. For example the type of premises it is, its general situation and layout and any other information which would be relevant to the licensing objectives.
2. The application form must be signed.
3. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
4. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
5. This is the address which we shall use to correspond with you about this application.



**Consent of premises licence holder to transfer**

I/we NAJIBULLAH ASAKZAI

*[full name of premises licence holder(s)]*

the premises licence holder of premises licence number 4571

*[insert premises licence number]*

relating to

INTERNATIONAL SUPERMARKET, 117, VILLA ROAD, HANDSWORTH, BIRMINGHAM,  
B19 1NH.

*[name and address of premises to which the application relates]*

hereby give my consent for the transfer of premises licence number

4571

*[insert premises licence number]*

to

GIRMAY WOLDEAB SIBHATU

*[full name of transferee]*

signed

name

(please print) NAJIBULLAH ASAKZAI

dated

3<sup>RD</sup> JANUARY 2017

## Appendix 2

ENTERED  
21

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**From:** Abdool Rohomon <  
**Sent:** 16 January 2017 13:47  
**To:** Licensing  
**Cc:** Philip Quinn  
**Subject:** transfer application - International Supermarket, Villa Road

Dear Licensing,

West Midlands Police are in receipt of the application transfer the premise licence of International Supermarket, 117 Villa Rd, Handsworth from Najibullah Asakzai to Girmay Woldeab Sibhatu.

These premises are currently being reviewed by BCC Trading Standards after a substantial amount of illegal and counterfeit tobacco and cigarettes were found in these premises. West Midlands Police are also supporting this application, these premises are known to West Midlands Police, as we served an expedited review against the premises in June 2016. It is clear that these premises are being used for serious criminal activities, and we are satisfied that there are serious issues with these premises and that to transfer the license would compromise the crime and disorder objective, due to the fact that whoever runs these premises they are involved in criminal activity.

West Midlands Police are also concern that this is an attempt to by pass the pending review application and there is no supporting evidence to show that the lease has been sold on, or that there is going to be no connection between the two parties, which again undermines the crime and disorder objective.

Therefore West Midlands Police, wish to object to this application and request a hearing

Kind regards

**Abs Rohomon**

**PC 4075 Rohomon  
BWC Planning and Licensing  
Police headquarters  
Lloyd House  
Colmore Circus  
Birmingham  
B4 6NQ**

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**West Midlands Police**

**Website:** [www.west-midlands.police.uk](http://www.west-midlands.police.uk)  
**Twitter:** [www.twitter.com/brumpolice](https://twitter.com/brumpolice)  
**Facebook:** [www.facebook.com/westmidlandspolice](https://www.facebook.com/westmidlandspolice)  
**YouTube:** [www.youtube.com/westmidlandspolice](https://www.youtube.com/westmidlandspolice)

**Vision statement - Serving our communities, protecting them from harm**

BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003

PREMISES LICENCE

Premises Licence Number:

4571 / 1

**Part 1 - Premises details:**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>	
International Supermarket 117 Villa Road	
<b>Post town:</b>	<b>Post Code:</b>
Birmingham	B19 1NH
<b>Telephone Number:</b>	
<b>Where the licence is time limited the dates</b>	
N/A	
<b>Licensable activities authorised by the licence</b>	
M2	Sale of alcohol by retail (off the premises)
<b>The times the licence authorises the carrying out of licensable activities</b>	
Monday - Sunday	00:00 - 23:59 M2
<b>The opening hours of the premises</b>	
Monday - Sunday	00:00 - 23:59
<b>Where the licence authorises supplies of alcohol whether these are on and/or off supplies</b>	
Off Supplies only	

**BIRMINGHAM CITY COUNCIL**

**Part 2**

<b>Name, (registered) address, telephone number and email (where relevant) of holder of premises licence</b> Mr Najibullah Asakzai	
<b>Post town:</b>	<b>Post Code:</b>
<b>Telephone Number:</b> Not Specified	
<b>Email</b> N/A	

<b>Registered number of holder for example company number or charity number (where applicable)</b> N/A
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<b>Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol</b> Mr Najibullah Asakzai	
<b>Post town:</b>	<b>Post Code:</b>
<b>Telephone Number:</b> N/A	

<b>Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol</b>	
<b>Licence Number</b>	<b>Issuing Authority</b>

Dated 29/09/2016

\_\_\_\_\_  
David Kennedy  
Principal Licensing Officer  
For Director of Regulation and Enforcement

## BIRMINGHAM CITY COUNCIL

### Annex 1 – Mandatory Conditions

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

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

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or (b) an ultraviolet feature.

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

(2) In this condition:— (a) "permitted price" is the price found by applying the formula  $P = D + (D \times V)$ , where— (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol; (b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence— (i) the holder of the premises licence, (ii) the designated premises supervisor (if any) in respect of such a licence, or (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence; (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

(3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.

(4) Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

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### **Annex 2 – Conditions consistent with operating schedule**

#### **2a) General conditions consistent with the operating schedule**

The Premises Licence Holder shall ensure that the Designated Premises Supervisor or another qualified person will train any staff at the premises on;

- All of the licensing objectives contained in the Licensing Act 2003;
- Responsible retailing of alcohol, and the law regarding sales of alcohol;
- The protection of children from harm and this must include how to competently check customers' identification where necessary;
- Permitted hours during which licensable activities can take place and on compliance with the conditions attached to the premises licence.

The Premises Licence Holder shall ensure all staff will be trained with regard to the relevant legislation of the Licensing Act 2003. All staff training records shall be documented and signed by both the trainer and trainee, which shall be made available to any of the Responsible Authorities on request. Refresher training will be completed and documented every 6 months.

The staff training records will be kept at the premises and made available to any Responsible Authority upon request.

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

Prominent signs with regard to alcohol sales shall be displayed at the premises.

CCTV will be recording and cover all areas open to members of the public, including the interior, front exterior of the premises and the entrance of the premises. This will be to the recommendation and specification of West Midlands Police. The CCTV will operate whenever the premises are open to members of the public. It will hold recorded data for a minimum of 31 days, and be made available to any Responsible Authority on request.

A refusal book shall be maintained and kept at the premises and will be signed off weekly by the DPS. The refusal book shall be made available immediately to any Responsible Authority upon request.

A member of staff in possession of a personal licence will be on the premises after 23:00hrs until 06:00hrs every day. In addition, all staff members will be able to operate and download CCTV at all times.

The premises will maintain an incident book and will record all incidents occurring inside or immediately outside the premises and will be signed off by the DPS on a weekly basis. This will be produced to all Responsible Authorities immediately on request.

SIA registered door supervision, wearing high visibility clothing, to be at the premises from 23:00hrs until 06:00 hrs on Fridays, Saturdays and on Sundays before a Bank Holiday.

The premises shall have a panic button facility.

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

Emergency lighting will be fitted at the premises and will be checked on a weekly basis. These checks are to be documented and produced to any responsible authority on request.

Entrances, exits and passageways are to be kept clear.

## **BIRMINGHAM CITY COUNCIL**

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

Notices must be prominently displayed at the exit from the premises requesting that customers respect the needs of local residents and to leave the premises quietly.

No alcohol will be permitted on the premises in open containers.

No alcohol to be consumed on the premises.

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

The Premises shall adopt a Challenge 25 Scheme and signage shall be displayed on site advising customers of the scheme. All staff shall be trained on the Challenge 25 scheme and this shall be recorded in the training register confirming the date of training, staff member trained, who conducted the training and the staff member and trainer shall sign the register.

The premises licence holder will maintain a refusals register (or refusal button on EPOS –Electronic Point of Sale) on the premises and ensure it is completed whenever a sale is refused to a person who cannot prove they are over the age of 18. The refusal register or record of till recorded refusals must be signed off on a weekly basis by the DPS and be made available to any Responsible Authority on request.

The Premises Licence Holder shall ensure that any alcohol on display is not obstructed from the view of the sales assistants.

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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

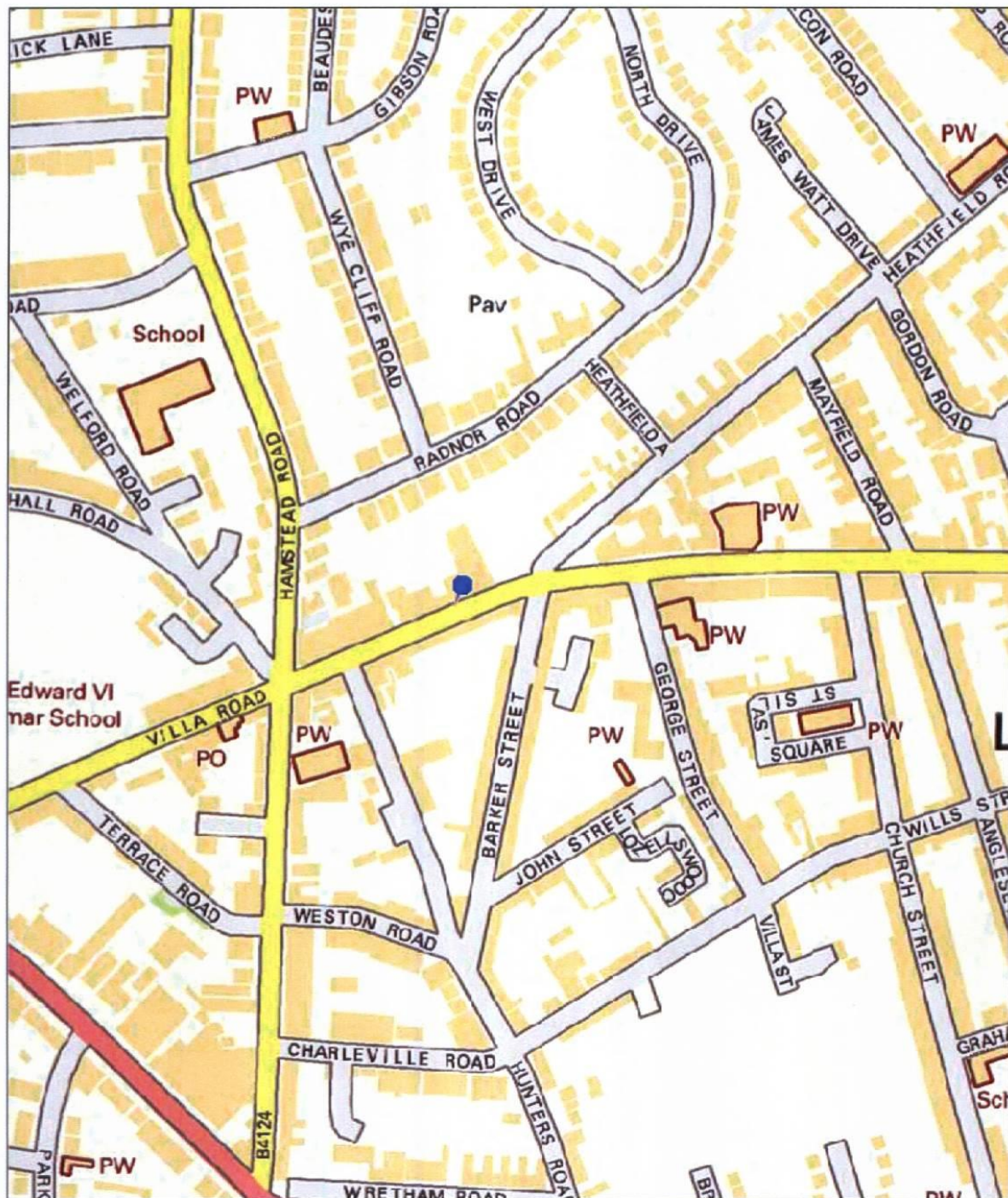
**3e) Committee conditions to promote the protection of children from harm**

N/A





## Appendix 4



Map Created By:

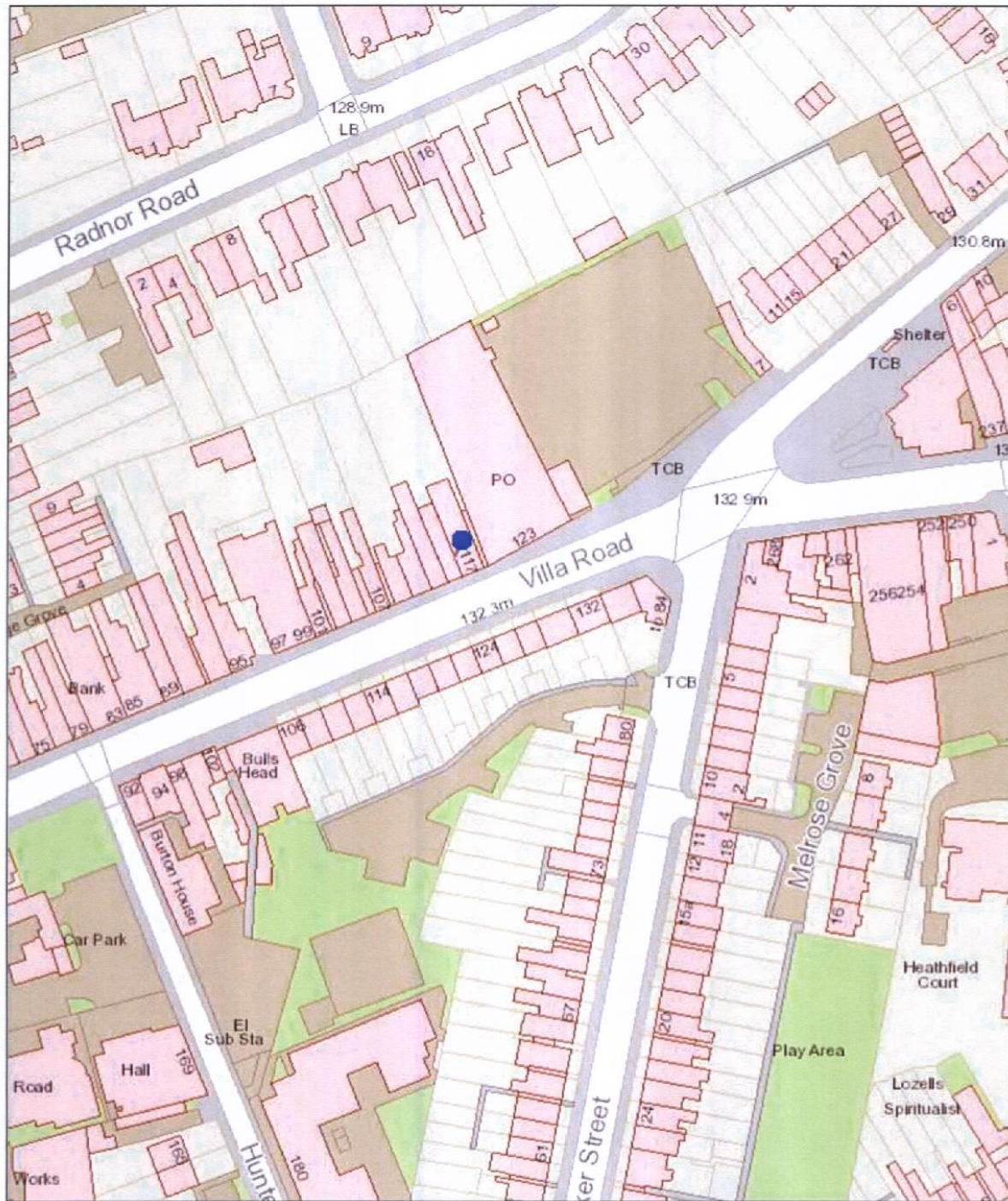
Date of Map Creation: 12/01/2017

Notes

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Scale:  
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Map Created By:

Notes

Date of Map Creation: 12/01/2017



Scale:  
1:1,250

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