

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee B
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Tuesday 22nd March 2016
Subject:	Gambling Act 2005 Variation of a Licensed Premises Gaming Machine Permit
Premises	Fox Inn, Walmley Road, Sutton Coldfield, B76 1NP
Ward affected:	Sutton New Hall
Contact Officer	David Kennedy, Principal Licensing Officer, 0121 303 9896, licensing@birmingham.gov.uk

1. Purpose of report:
Officers have delegated authority to Grant Permits in respect of 4 Licensed Premises Gaming Machines, Category C & D in an Alcohol Licensed Premises. This application seeks to have permission to operate 4 Category C Gaming Machines and 1 Category D Machine.

2. Recommendation:
The Sub Committee is requested to consider an application to operate a total of 5 Gaming Machines on an Alcohol Licensed premises.

3. Brief Summary of Report:
An application for the variation of a Licensed Premises Gaming Machine Permit was received on 8 th February 2016.

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

<p>5. Relevant background/chronology of key events:</p> <p>Mitchells & Butlers Leisure Retail Limited submitted an application for the variation of a Licensed Premises Gaming Machine Permit on 8th February 2016 for the Fox Inn, Walmley Road, Sutton Coldfield, B76 1NP.</p> <p>The application, including supplementary information in support of the application, is attached at Appendix 1.</p> <p>Birmingham City Council Licensing Enforcement visited the premises on 10th February 2016, and confirmed that they have no objections to this application. Their report is attached at Appendix 2.</p> <p>A copy of the current Gaming Machine Permit issued under the Gambling Act 2005, is attached at Appendix 3.</p> <p>Gaming Machine Categories by maximum stake and maximum prizes available, see attached Appendix 4.</p> <p>Site Locations Plan at Appendix 5.</p> <p>Where an application for a licensed gaming machine permit is made, the licensing authority shall consider it having regard to the licensing objectives, any relevant guidance issued by the Commission under section 25 and such other matters as they think relevant.</p> <p>The licensing objectives are:</p> <ul style="list-style-type: none"> a. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. b. Ensuring that Gambling is conducted in a fair and open way c. Protecting Children and other vulnerable persons from being harmed or exploited by gambling.

<p>6. List of background documents:</p> <p>Application Form, Appendix 1 Birmingham City Council Licensing Enforcement report, Appendix 2 Current Gaming Machine Permit, Appendix 3 Gaming Machine Categories, Appendix 4 Site Location Plans, Appendix 5</p>

<p>7. Options available</p> <ul style="list-style-type: none"> a) Grant the application b) Refuse the application c) Grant the application in respect of; <ul style="list-style-type: none"> (i) A smaller number of machines than is specified in the application (ii) A different category of machines from that specified in the application, or (iii) both <p>A licensing authority may not refuse an application or grant it in respect of a different category or number of gaming machines without first notifying the applicant and giving the applicant an opportunity to make representations (either in written or oral form, or both).</p>
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**NOTIFICATION OF 2 OR LESS GAMING MACHINES or
GAMING MACHINE PERMIT APPLICATIONS (i.e. for greater than 2 machines) for:
VARIATION**
(FOR USE BY PREMISES LICENSED TO SUPPLY ALCOHOL FOR CONSUMPTION ON THE PREMISES)

Please refer to guidance notes at the back of this form before completing

To: Birmingham City Council, Licensing Section
Crystal Court, 50 Rocky Lane
Aston
Birmingham
B6 5RQ



SECTION A – What do you want to do?

1. Please indicate what you would like to do

a) Notify Licensing Authority that you intend to provide up to a maximum total of 2 gaming machines category C or D
(if you choose this option then please complete sections D and E) ☐

b) Apply for a **new** licensed premises gaming machine permit
(if you choose this option then please complete sections B, D and E) ☐

c) Apply to **vary** an existing licensed premises gaming machine permit
(if you choose this option then please complete sections B, D and E) ☒

d) Apply to **transfer** an existing licensed premises gaming machine permit
(if you choose this option then please complete sections C, D and E) ☐

NB: Please ensure that all relevant parts of the form are **fully** completed

SECTION B – Application for Grant (includes new and variation applications)

2. How many gaming machines are you currently authorised to provide and if this is a new or variation application, how many do you wish to provide? (please complete the boxes in the table)

Category machine	Number currently authorised to provide	Number wish to provide (new or variation)
C	3	4
D	1	1
Total	4	5

3. If you are currently authorised to provide more than 2 machines, please provide your existing permit, or provide reasons stating why it cannot be provided (if it is lost/stolen you must report it to the police and apply to the Licensing Authority for a copy licence).

Existing permit provided*

(please state the reason if existing permit cannot be provided)

*Please keep a COPY of your existing permit on the premises to which it relates.

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<p>Section C – Application for permit transfer (i.e. where a transfer application has been made for the Licensing Act 2003 premises licence)</p> <p>4. Name of proposed transferee of Gaming Machine Permit</p> <p>5. Confirmation that an application to transfer the relevant Licensing Act 2003 Premises Licence has been:</p> <div style="text-align: right; margin-right: 50px;"> Applied for <input type="checkbox"/> Granted <input type="checkbox"/> </div> <p>6. Please provide the existing Gaming Machine permit, or provide reasons stating why it cannot be provided (if it is lost/stolen you must report it to the police and apply to the Licensing Authority for a copy licence). <div style="text-align: right; margin-right: 50px;">Existing permit provided <input type="checkbox"/></div> </p> <p>(please state the reason if existing permit cannot be provided) </p>	<div style="text-align: center;"> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div>
<p>Section D – General Information</p> <p>7. Name of Premises.....Fox Inn</p> <p>8. Address of Premises Walmley Road, Sutton Coldfield, B76 1NP</p> <p>9. Telephone number of Premises.....</p> <p>10. Name of existing Premises Licence holderMitchells & Butlers Leisure Retail Limited.....</p> <p>11. Address of Premises Licence holder (if different from 8 above) 27 Fleet Street, Birmingham, B3 1JP</p> <p>12. Telephone number (daytime) of Premises Licence holder</p> <p>13. E-mail address of Premises Licence holder (where available) </p> <p>14. Name, address, telephone and e-mail of agent (e.g. solicitor) if submitted on behalf of the applicant Poppleston Allen Solicitors, 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS</p> <p>15. Licensing Act 2003 Premises Licence Number 56 / 3.....</p>	

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VARIATION**

(FOR USE BY PREMISES LICENSED TO SUPPLY ALCOHOL FOR CONSUMPTION ON THE PREMISES)

Section E – Fee and Signature(s)

I enclose a sum of (£ 100.00) (cheques should be made payable to Birmingham City Council.)* ✓

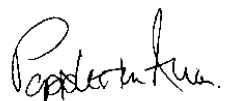
I understand that I must comply with any Gaming Machine Code of Practice for Alcohol Licensed Premises issued by the Gambling Commission. (see guidance note 8)

I can confirm that the premises are licensed under the Licensing Act 2003 to sell alcohol for consumption on the premises (without the requirement that alcohol is served only with food) and that there is a bar for serving alcohol to customers on the premises

Please note: It is an offence under section 342 of the Gambling Act 2005 if a person, without reasonable excuse, gives to a licensing authority for a purpose connected with that Act information which is false or misleading.

Dated05 February 2016.....

Signed (by or on behalf of Licensing Act 2003 Premises Licence holder)



Print Name Poppleston Allen Solicitors for and on behalf of the applicant..

NB: Authorisation must be obtained from the person or organisation who holds the Premises Licence issued under the Licensing Act 2003 (Please see below)

I Authorise:SEE ATTACHED SHEET.....

to act as my agent to apply for a Notification of 2 Machines or a Gaming Machine Permit.

Name of Premises Licence Holder: SEE ATTACHED SHEET

Signature: SEE ATTACHED SHEET

* If you wish to have a maximum of 2 gaming machines then the Notification fee payable is £50.

If you wish to have more than 2 gaming machines then a permit is required and the relevant statutory fees payable are:

£150 for new applications
£100 for a variation
£ 25 for a transfer

NB the statutory fee for a copy permit is £15

CAT C PERMIT APPLICATION STATEMENT

The above application will enable a Video AWP machine to be sited that conforms to legal requirements and Gambling Commission guidance. It is a relatively new product in the leisure industry. The machine has a suite of games. The machine can have new games either downloaded over a phone line or by replacing the hard drive.

It is the intention to replace an existing non CAT C machine, so the actual number of machines sited in the outlet remains the same.

As a company we constantly look at supplying our guests with the latest innovation in electronic leisure. In recent years we have utilised such machines as Golf games and Touch Screen strategy games, these initially proved popular but over recent times there has been a steady decline in their usage. Our guests like to see new products and the Video AWP is a new development that is proving popular with both male and female guests and interestingly does not really appeal to regular AWP players. The ability to utilise video graphics on features means a longer game and more fun and entertainment.



Appendix 2

Birmingham City Council Licensing Service

Licensing Enforcement Team report as a responsible authority in respect of an applications made under the Gambling Act 2005

Introduction

Principles to be applied:

In exercising their functions a licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it—

- (a) in accordance with any relevant code of practice under section 24,
- (b) in accordance with any relevant guidance issued by the Commission under section 25,
- (c) reasonably consistent with the licensing objectives:
 - (i) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
 - (ii) ensuring that gambling is conducted in a fair and open way, and
 - (iii) protecting children and other vulnerable persons from being harmed or exploited by gambling;
- and
- (d) in accordance with the Birmingham City Council - Statement of Principles .

Background Information

The applicant Mitchells & Butlers Leisure Retail Limited, 27 Fleet Street, Birmingham, B3 1JP has submitted an application to increase the number of gaming machines currently permitted at their premises trading as:-

The Fox Inn, Walmley Road, Sutton Coldfield, B76 1NP

The applicant Mitchells & Butlers Leisure Retail Limited currently holds a Licensed Premises Gaming Machine Permit number 288/3 allowing up to 4 gaming machines to be made available at the premises (Copy of the current permit attached to the report as appendix 1).

This permit specifies the number and category of the gaming machines authorised as follows:-

- Number of category C gaming machines - 3
- Number of category D gaming machines - 1

The applicant has made an application and is now seeking authorisation to increase the number of gaming machines permitted as follows:-

- Number of category C gaming machines - 4
- Number of category D gaming machines - 1

Gambling Act 2005

Section 153 of the Gambling Act 2005

Requires licensing authorities to take into account when exercising their functions, any relevant code of practice issued by the Commission.

The Gambling Commission guidance to the Gambling Act 2005 states at :-

Paragraph 26.8

Licensing authorities may issue licensed premises gaming machine permits for any number of category C or D machines in licensed premises. Where a permit authorises the making available of a specified number of gaming machines in particular premises, this will effectively replace, and not be in addition to, any automatic entitlement to two machines under s.282 of the Act.

Paragraph 26.9

Holders of licensed premises gaming machine permits are required to comply with a code of practice issued by the Commission on the location and operation of machines, Code of practice for gaming machines in clubs and premises with an alcohol licence. (Copy of the current code of practice attached to the report at appendix 2)

Paragraph 26.12

In determining an application, the licensing authority must have regard to the licensing objectives and to this Guidance. They may also take account of any other matters that are considered relevant to the application. The application does not require notification to the Commission or police before determination, however, licensing authorities are able to specify this as a requirement should they see fit.

Paragraph 26.13

The licensing authority may grant or refuse an application. In granting the application, it may vary the number and category of gaming machines authorised by the permit. If granted, the licensing authority must issue the permit as soon as possible after that. Where they refuse the application they must notify the applicant as soon as possible, setting out the reasons for refusal. The licensing authority must not refuse an application, or grant it for a different number or category of machines, unless they have notified the applicant of their intention to do so and given the applicant an opportunity to make representations, orally, in writing, or both.

Paragraph 26.14

The permit must specify the person or organisation to which it is issued, the number and category of gaming machines for which the permit has effect, the address of the premises and the date on which it takes effect.

Paragraph 26.17

There are no renewal provisions for this class of permit because they are indefinite and continue in force for so long as the premises continues to have an alcohol licence and the holder of the permit continues to hold that licence. The permit can lapse if the holder surrenders it to the licensing authority.

Paragraph 26.18

The holder may apply to vary the permit by changing the number and/or category of machines authorised by it.

Birmingham City Council Statement of Principles

A person who holds the "on-premises" alcohol licence may apply to the Licensing Authority for a permit specifying any number of category C or D machines but when considering the application the Licensing Authority will have regard to the licensing objectives, and may also take into account any matters that are considered relevant to the application. These may include:

- ☐ the appropriate siting of gaming machines in areas where children are not normally permitted;
- ☐ the size of the premises;
- ☐ the supervision of gaming machines at all times when the premises is open;
- ☐ notices by each gaming machine specifying no person under 18 years old are permitted to use the gaming machine;
- ☐ age verification checks;
- ☐ ensuring members of staff are appropriately trained;
- ☐ display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues.

Visit to the Fox Inn - 10th February 2016

The applicant is currently making the permitted number and category of gaming machines available at the premises (3 category C, 1 category D).

The gaming machines are all sited in the bar and lounge area and are clearly visible to members of staff working in the bar or lounge.

After speaking to members of staff during the visit, it was noted that they were aware of the minimum age of 18 for players using the category C machines, the requirement for the gaming machines to be supervised at all times in order to prevent under age gambling and need to carry out ID checks if concerned about the possible age of a person(s) playing any of the category C gaming machines.

During a telephone conversation with the Duty Manager she indicated that if the application to increase the number of category C gaming machines was successful the additional category C gaming machine would replace a quiz machine currently sited in the bar area and would be sited in clear view of the bar.

As a Responsible Authority it is important to bear in mind that gambling must remain ancillary to the main purpose of the premises and the exemptions and permits are reliant on the premises holding a valid alcohol licence.

Recommendations

No matters for concerns were identified during the visit to the premises on the 10th February 2016 in relation to the existing 4 gaming machines being made available for use. The Licensing Enforcement Team would therefore have no concerns if the Licensing Sub Committee is minded to grant the application submitted.

The Licensing Enforcement Team considers the number and category of gaming machines applied for will continue to satisfy the requirement that gambling at the premises remains ancillary to the main purpose being the sale of alcohol and is not an excessive number given the size of the premises.

The Codes of Practice issued by the Gambling Commission further ensures the appropriate siting, supervision and operation of gaming machines at the premises.

The applicant has measures in operation at the premises which promote the licensing objectives and in particular promote the protection of children and other vulnerable persons from being harmed or exploited by gambling.

BIRMINGHAM CITY COUNCIL

This form is prescribed by regulation 4 of the Gambling Act 2005 (Licensed Premises Gaming Machine Permits) (England and Wales) Regulations 2007

Licensed Premises Gaming Machine Permit

No: 288 / 3

This licensed premises gaming machine permit authorises:

Mitchells and Butlers Leisure Retail Limited

to make gaming machines, of the category and number specified below, available for use on the following premises

Fox Inn, Walmley Road, Sutton Coldfield, B76 1NP

Number of Category C Gaming Machines authorised by this permit: 3

Number of Category D Gaming Machines authorised by this permit: 1

Date on which this permit takes effect or is renewed:

20/08/2012

This permit is issued by:

Birmingham City Council

**Licensing Section, Crystal Court, Aston Cross Business Village,
50 Rocky Lane, Aston, Birmingham, B6 5RQ**

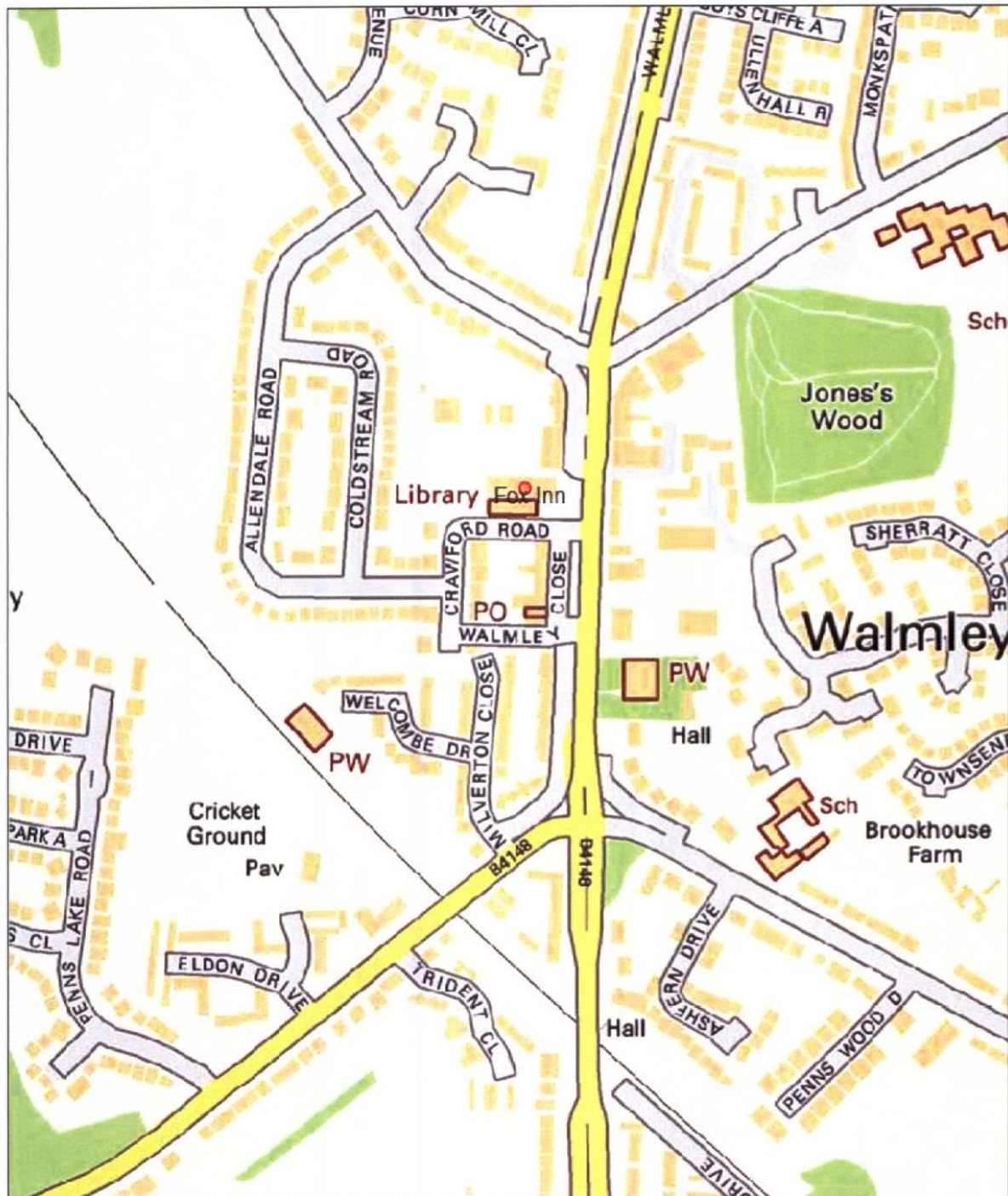
Licensing Section, Crystal Court, Aston Cross Business Village, 50 Rocky Lane, Aston, Birmingham, B6 5RQ

Appendix 4

Gaming Machines (Fruit Machine, Slot Machine) Categories

Gaming machines (fruit machines, slot machines) fall into categories depending on the maximum stake and prize available:

Machine category	Maximum stake (from January 2014)	Maximum prize (from January 2014)
A	Unlimited	Unlimited
<u>B1</u>	£5	£10,000 (with the option of a maximum £20,000 linked progressive jackpot on a premises basis only)
<u>B2</u>	£100	£500
<u>B3</u>	£2	£500
B3A	£2	£500
<u>B4</u>	£2	£400
<u>C</u>	£1	£100
<u>D non-money prize (other than crane grab machine)</u>	30p	£8
<u>D non-money prize (crane grab machine)</u>	£1	£50
<u>D money prize</u>	10p	£5
<u>D combined money and non-money prize (other than coin pusher or penny falls machines)</u>	10p	£8 (of which no more than £5 may be a money prize)
<u>D combined money and non-money prize (coin pusher or penny falls machine)</u>	20p	£20 (of which no more than £10 may be a money prize)



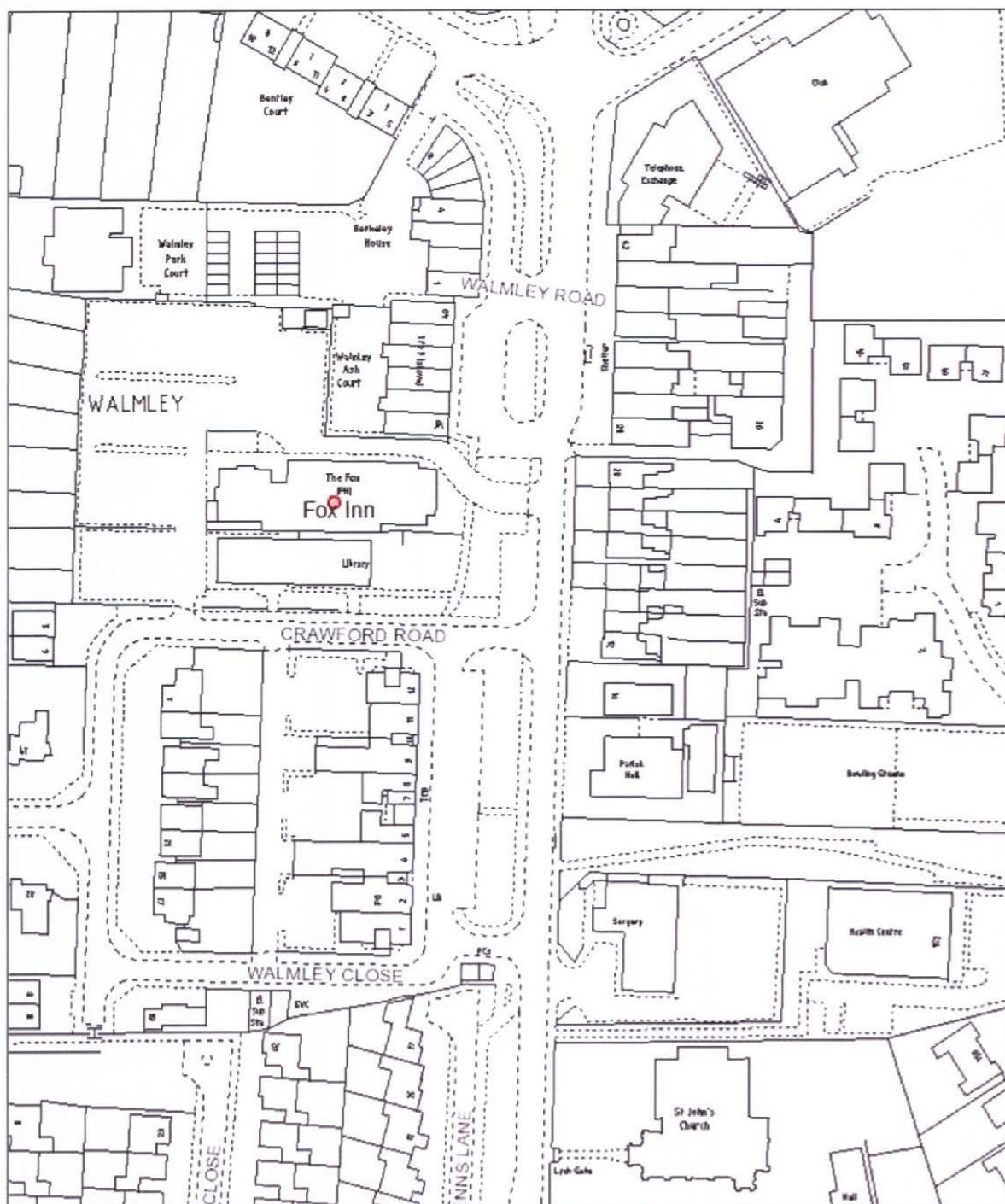
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Notes

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Birmingham City Council Map Created By:

Date of Map Creation: 08/03/2016

Notes



Scale:
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