

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee B
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Tuesday 16th May 2017
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	A G Convenience, 182 Brighton Road, Balsall Heath, Birmingham, B12 8QN
Ward affected:	Sparkbrook
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 28 th March 2017 from the Chief Inspector of Weights and Measures in respect of A G Convenience, 182 Brighton Road, Balsall Heath, Birmingham, B12 8QN. 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 Officer of Weights and Measures applied on 28th March 2017 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for A G Convenience, 182 Brighton Road, Balsall Heath, Birmingham, B12 8QN.</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.
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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>

Appendix 1

ENTERED BY

From: Vicki Demuth
Sent: 20 April 2017 10:02
To: Licensing
Cc: bw licensing
Subject: Review of AG Convenience, 182 Brighton Road

Dear Licensing,

West Midlands Police would like to submit representation for the review application made by Trading Standards for AG Convenience, 182 Brighton Road, Balsall Heath, Birmingham, B12 8QN.

The counterfeit product market costs the UK billions each year in unpaid duty. This is a serious problem which breaches the public safety and crime and disorder licensing objectives. Shop owners often use the counterfeit market for their own financial gain, risking customers health and safety, by breaking the law.

This isn't the first time that the premises has come to light for the sale of illicit tobacco and alcohol. Trading Standards have evidenced visits in June and October 2016, followed by January 2017 which show the premises fully complicit in facilitating criminal activity.

The items recovered by Trading Standards clearly show the premises is out of control. This is a serious offence which breaches licensing objectives. Home Office guidelines class the sale and purchase of illicit products as a serious offence, therefore we feel that revocation of the premises licence should be strongly considered by the licensing committee.

Kind Regards
Vicki

PC 0027 Vicki Demuth
BW Licensing
Lloyd House, Birmingham

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Appendix 2

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 Ellson (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 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details; A G Convenience

Postal address of premises or, if none, ordnance survey map reference or description	
A G Convenience 182 Brighton Road Balsall Heath	
Post town BIRMINGHAM	Post code (if known) B12 8QN

Name of premises licence holder or club holding club premises certificate (if known)	
Mr Hamidreza Sardeh (Licence Holder)	BCC REGULATION & ENFORCEMENT LICENSING SECTION DATE RECEIVED
Number of premises licence or club premises certificate (if known) 3676	20/1/07
Part 2 - Applicant details	REF NO INITIALS

I am

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)

☐

gg/tss/2035/pe/ijj/8431999

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

Please tick ✓ yes

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

Surname

First names

Please tick ✓ yes

I am 18 years old or over

☐

**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
N/A

Telephone number (if any)

E-mail address (optional)

gg/tss/2035/pe/jj/8431999

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address; Paul Ellison, Trading Standards 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 Our Reference 8431999
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

- ✓
- ✓
- ☐
- ✓

gg/tss/2035/pe/jj/8431999

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

In June 2016 Birmingham Trading Standards received information that A.G. Convenience at 182 Brighton Road, Balsall Heath, Birmingham B12 8AN may be selling illicit cigarettes. Subsequently a trader advisory visit was carried out to inform the licence holder and operator of the store of the allegations and issue a warning to desist from such activities.

On 18 October 2016 the premises was visited as part of Operation Strike, an exercise to find and remove illicit tobacco if found on premises inspected. The exercise was conducted with the assistance of a tobacco detection dog and his handler.

The inspection was conducted during normal daytime opening hours. On arrival there was one man behind the counter who gave his name as Mr Koshan AHMED. A Police and Criminal Evidence Act 1984 Code B Notice and a Consumer Rights Act 2015 Notice was issued to Mr AHMED; but he refused to give any further details or sign any notices.

Officers explained the purpose of the visit. After a brief discussion Mr AHMED called a Mr Ishmail MOROVAT into the premises; Mr AHMED had stated that MOROVAT was the part owner of the shop.

Following this an inspection of the shop was undertaken. No infringing goods were found within the sales area.

However the dog handler explained the dog had indicated the presence of tobacco in a locked van, registration number EO55 , parked at the rear of the premises. Mr MOROVAT stated that he did not know where the keys were. A separate search notice was issued for the vehicle but Mr MOROVAT refused to sign this.

Subsequently an officer found the key to the vehicle in the fridge in the premises that was in the rear stock room and the van was subsequently opened.

There were two cardboard boxes in the van which contained tobacco; inside the box were the following packs of non-duty paid foreign branded cigarettes; 28 packs of Marlboro, 16 packs of Jin Ling, 23 packs of L & M, 36 packs of Minsk, 34 packs of NZ, 39 packs of Kent, 46 packs of Pect, 17 packs of Mayfair. In addition there were the following number of packs of hand-rolling tobacco; 12 packs of Amber Leaf, 8 packs of Golden Rising and 12 packs of Bahman.

In total there were 271 packets of non-duty illicit tobacco.

All the items were listed on a seized property record however Mr MOROVAT refused to sign the record. The items were seized and the officers left the premises.

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

In total 271 packets of non-duty or illicit tobacco was seized from the premises on the 18 October 2016 (this is approximate market value of £1500).

All these items would have been smuggled in with no UK duty paid. They are usually supplied to retailers by organised criminal gangs who pay no tax on the products and undermine legitimate trade in the process and circumvent UK law. All such transactions are usually done by cash only and it is difficult if not impossible to trace the source of the supplier or where the products have originated from. This stock was concealed just far enough away from the premises in the assumption the vehicle would not be searched despite the best efforts to hide the key (in the fridge).

There is great responsibility in running a licenced premises it should mean that items of stock whatever they are, are legal, safe and traceable. All tobacco products are harmful but when product is illicit and the provenance unknown this may present further health risks.

The revised 2014 Home Office guidance issued under Section 182 of the Licencing Act 2003 in Section 11.27 under the heading of Review Process states;

"There is certain criminal activity that may arise in connection with licenced premises which should be treated particularly seriously. There are the uses of the licenced premises for the sale or storage of smuggled tobacco and alcohol..."

Given the seriousness of this matter Trading Standards would ask the Committee to consider all the available options when reviewing the licence.

Additional Information:

- At the time of the inspection on 18 October 2016 the Premises Licence holder was Mr. Hamidreza SARDEH.
- Following this on the 19 December 2016 the Premises Licence was transferred to a Mr Ishmail MOROVAT.
- The premises licence holder is now currently Mr. Hamidreza SARDEH; the licence was transferred again to him as of 22 February 2017.

Mr Hamidreza SARDEH was the licence holder from 30/10/2013, until the change of licence to MOROVAT between 19/12/2016 and 22/02/17 when SARDEH returned as the licence holder.

Mr. SARDEH has some history with the Trading Standards Service.

On 1 October 2013 Mr SARDEH received an officer warning when 5 bottles of illicit alcohol were found on the premises. In July 2014 he received a further officer warning when 16 bottles of illicit alcohol were found on the premises.

In June 2016 the Trading Standards Service received information that illicit cigarettes were being supplied from the premises and this gave rise ultimately to the enforcement visit on 18 October 2016.

On 25 January 2017 as part of intelligence led operation the premise of AG Convenience Store was visited again by officers from Trading Standards. After the relevant paperwork was served a search of the premises was done. There were outer wrappers of Marlboro cigarettes found in a bin in the shop and an empty packet of Marlboro all with foreign (Polish) writing on indicating that they were of dubious origin and not legal to be sold in the UK. Interestingly there were two Silk Cut tins behind the counter with 33 single cigarettes, indicating that single cigarettes were being

sold. This is a banned practice under legislation.

Also three bottles of non-duty alcohol was found on the shelves on display behind the counter. These bottles were 2 bottles of 70cl Havana Club Spirit Rum and 1 bottle of 70cl Prince Consort Vodka; none of these bottles had a UK duty stamp on and cannot be sold in the UK. More importantly while searching the till area one of the officers found a hidden drawer which could only be opened by the activation of a camouflaged electrical switch; although this drawer was empty, the drawer could only be used to hide illicit tobacco products.

In addition the Trading Standards Service has liaised with Her Majesty's Revenue and Customs (HMRC) who have provided the following information by way of a witness statement:

That on 21 December 2016 a test purchase was made by an officer from HMRC of 20 L&M Red label cigarettes. The cigarettes had foreign markings, a foreign tax stamp and no 'UK DUTY PAID' fiscal mark. These cigarettes had been produced from behind the counter.

This demonstrates that even after the inspection on 18 October 2016 the premises continued to deal in illicit tobacco. This is further compounded by illicit products being found by Trading Standards on 25 January 2017.

Taking account of the history of the premises the Chief Inspector of Weights and Measures is of the view that this is a poorly run business by the licence holder who has been found in possession of illicit products on a number of occasions. Not only is this illegal but it undermines legitimate businesses acting legally.

The licence holder has shown a total disregard for previous warnings and continued to deal in illicit products.

The business has failed on several levels to adhere to the licensing objectives:

"Crime – Failed to prevent crime and disorder" in that there has been a history of being in possession of illicit alcohol and tobacco. It is a criminal offence to supply such goods.

"Safety – Failed to promote public safety" in that the trade had no way to prove the safety or provenance of illicit tobacco or alcohol.

"Child – Failed to promote the protection of children from harm" in that single cigarettes are often used to entice children to purchase cigarettes.

It is therefore requested that the Committee consider all the powers at their disposal.

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

Please tick ✓ yes
no

If yes please state the date of that application

Day		Month		Year	
1	1	1	1	1	1

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

N/A

gg/tss/2035/pe/fjj/8431999

Please tick ✓

- 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, 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 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

24/3/17

Capacity for and on behalf of Donna Bensley Chief Inspector of Weights & Measures

.....

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)	

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.

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Appendix 3

BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003

PREMISES LICENCE

Premises Licence Number:

3676 / 4

Part 1 - Premises details:

Postal address of premises, or if none, ordnance survey map reference or description A G Convenience Store 182 Brighton Road Balsall Heath	
Post town: Birmingham	Post Code: B12 8QN
Telephone Number: Not Specified	
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 - Sunday 08:00 - 23:00 M2	
The opening hours of the premises Monday - Sunday 08:00 - 23:00	
Where the licence authorises supplies of alcohol whether these are on and/or off supplies Off Supplies Only	

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Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Mr Hamidreza Taghizadeh Sardeh	
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 Hamidreza Taghizadeh Sardeh	
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	Issuing Authority

Dated 22/02/2017

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

No enforceable conditions identified from operating schedule.

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

All written training records will be available on site for inspection at any time

The premises to be fully alarmed and to have panic alarm button facility.

The personal licence holder shall ensure that any staff involved in the sale of alcohol are fully trained on their responsibilities under the Licensing Act 2003, including any changes of legislation and all staff will be trained in the usage and chronicled storage of CCTV.

The premises will have internal and external CCTV in working order, recordings of which shall be kept for 31 days.

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

The layout of the shop gives consideration to the prevention of childrens access to alcohol and any alcohol displayed will not be obstructed from the view of the sales assistants.

The premises will operate a proof of age scheme via acceptable forms of identification and incorporating the 'challenge 21' system. A sales refusal book will be fully maintained and available for inspection at any time.

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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

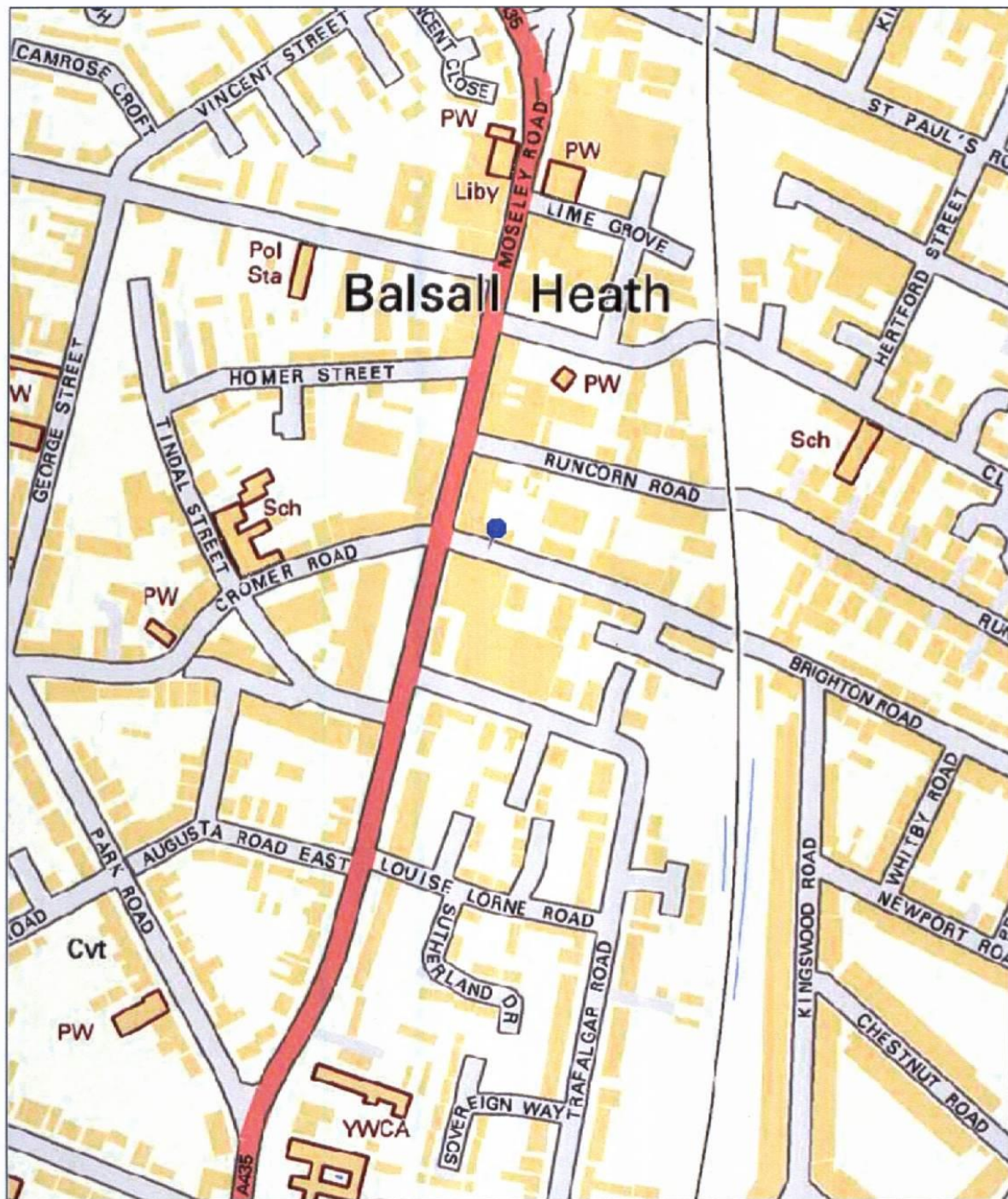
N/A

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Annex 4 – Plans

The plan of the premises with reference number **100123-3676/4** which is retained with the public register kept by Birmingham City Council and available free of charge for inspection by appointment only. Please call the Licensing Section on 0121 303 9896 to book an appointment.

Appendix 4



Birmingham City Council Map Created By:

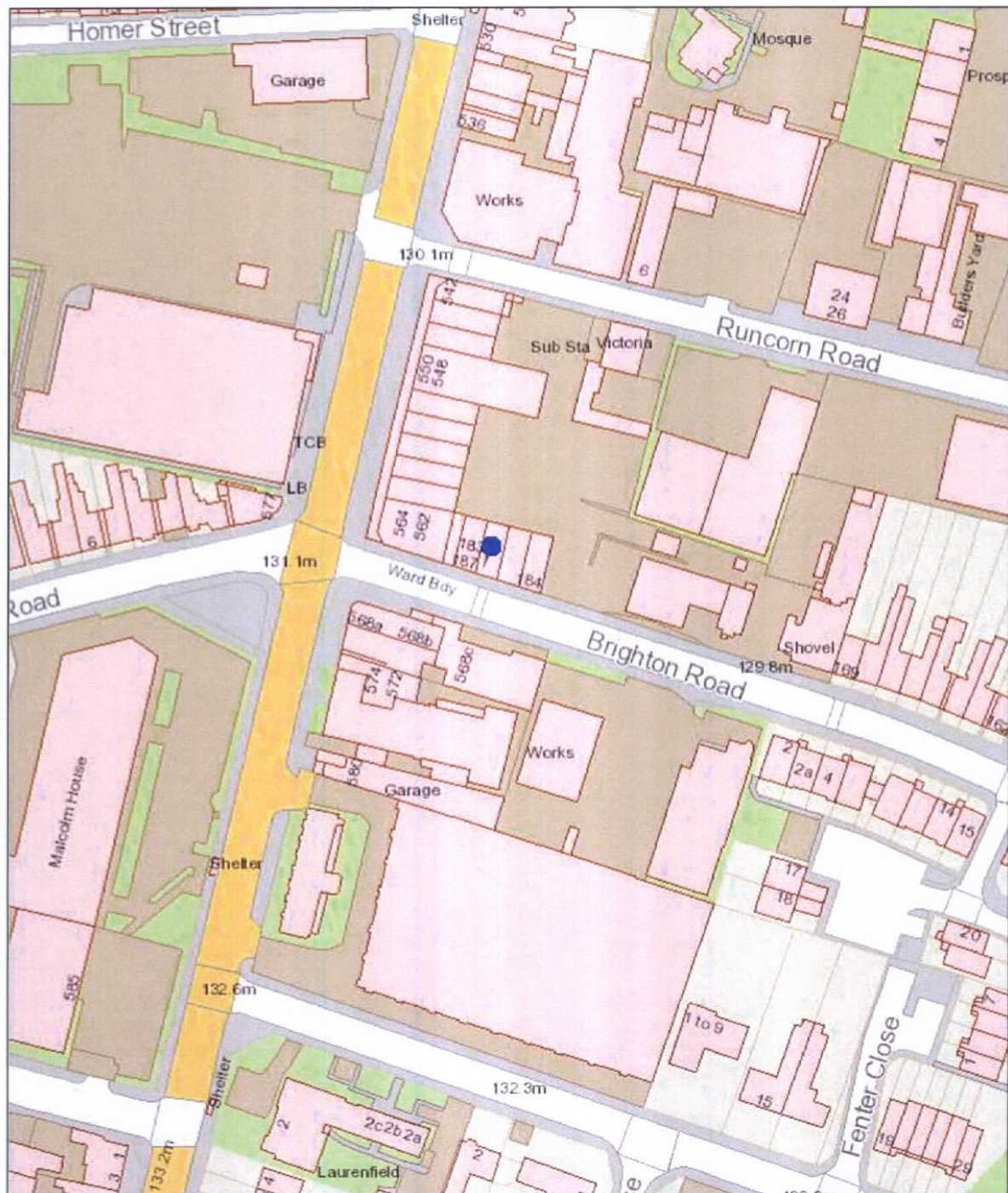
Date of Map Creation: 26/04/2017

Notes



Scale:
1:4,000

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Birmingham City Council Map Created By:

Date of Map Creation: 26/04/2017

Notes



Scale:
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