

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C
Report of:	Assistant Director of Regulation & Enforcement
Date of Meeting:	Wednesday 2nd October 2019
Subject:	Licensing Act 2003 Temporary Event Notice
Premises:	Flamingo Café & Restaurant, 81 – 83 Villa Road, Birmingham, B19 1NH
Ward affected:	Birchfield
Contact Officer:	Shaid Yasser, Senior Licensing Officer 0121 303 9896 licensing@birmingham.gov.uk

1. Purpose of report:

To consider the objection to the Temporary Event Notice (TEN), which seeks to permit the sale of alcohol (for consumption on the premises) and the provision of regulated entertainment on 19th October 2019, to operate from 11:00pm until 04:00am (the following day).

2. Recommendation:

To consider the objection notice made by Environmental Health.

3. Brief Summary of Report:

A Temporary Event Notice was received on 20th September 2019 in respect of Flamingo Café & Restaurant, 81 – 83 Villa Road, Birmingham, B19 1NH.

An objection notice has been received from Environmental Health.

4. Compliance Issues:

When carrying out its licensing functions, a licensing authority must have regard to the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

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>5. Relevant background/chronology of key events:</p> <p>Samsom Kahsay submitted on 20th September 2019 a Temporary Event Notice in respect of Flamingo Café & Restaurant, 81 – 83 Villa Road, Birmingham, B19 1NH.</p> <p>The Temporary Event Notice is attached at Appendix 1.</p> <p>An objection notice has been received from Environmental Health, see Appendix 2.</p> <p>The current premises licence is attached at Appendix 3.</p> <p>Site location plans are attached, see Appendix 4.</p> <p>Under the licensing system of TENs, no actual permission is required to carry out a licensable activity on a temporary basis. An applicant must merely give notice of his intentions to operate a licensable activity to the licensing authority.</p> <p>However, the police or local authority exercising environmental health functions may intervene to prevent such an event taking place or agree a modification of the proposed arrangements, and their intervention may in some cases result in the licensing authority imposing conditions on a TEN.</p> <p>Where a TEN is submitted, the licensing authority must consider the objection(s) at a hearing before a counter notice, or a notice including a statement of conditions can be issued.</p> <p>When giving a TEN, consideration should be given to the following four licensing objectives:</p> <ol style="list-style-type: none"> 1. The prevention of crime and disorder 2. public safety 3. The prevention of public nuisance; and 4. The protection of children from harm <p>If the TEN is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN if it considers that this is appropriate for the promotion of the licensing objectives.</p>

<p>6. List of background documents:</p> <p>Temporary Event Notice is attached at Appendix 1.</p> <p>Objection Notice from Environmental Health, attached at Appendix 2.</p> <p>Current Premises Licence, Appendix 3.</p> <p>Site location plans, Appendix 4.</p>

<p>7. Options available</p> <p>Allow the proposed temporary licensable activities as stated in the TEN</p> <p>Impose conditions on a TEN to promote the licensing objectives</p> <p>Refuse the proposed temporary licensable activities as stated in the TEN</p>



Birmingham
Temporary Event Notice
Licensing Act 2003

For help contact
licensingonline@birmingham.gov.uk
 Telephone: 0121 303 9896

* required information

Section 1 of 9

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference

Not Currently In Use

This is the unique reference for this application generated by the system.

Your reference

You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

☒ Yes

☐ No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

Samsom

* Family name

Kahsay

* E-mail

Main telephone number

Include country code.

Other telephone number

☐ Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

☐ Applying as a business or organisation, including as a sole trader

☒ Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

Continued from previous page...

Address

* Building number or name
* Street
District
* City or town
County or administrative area
* Postcode
* Country

Agent Details

* First name
* Family name
* E-mail
Main telephone number Include country code.
Other telephone number

☐ Indicate here if you would prefer not to be contacted by telephone

Are you:

- ☒ An agent that is a business or organisation, including a sole trader
☐ A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

Agent Business

Is your business registered in the UK with Companies House? ☒ Yes ☐ No

Note: completing the Applicant Business section is optional in this form.

Registration number
Business name
VAT number
Legal status
Your position in the business
Home country

If your business is registered, use its registered name.

Put "none" if you are not registered for VAT.

The country where the headquarters of your business is located.

Continued from previous page...

Agent Registered Address

Address registered with Companies House.

Building number or name	Optimised Training Centre
Street	1 Guildford Street
District	
City or town	Birmingham
County or administrative area	
Postcode	B19 2HN
Country	United Kingdom

Section 2 of 9

APPLICATION DETAILS (See also guidance on completing the form, general notes and note 1)

Have you had any previous or maiden names?

☐ Yes

☒ No

* Your date of birth

dd	mm	yyyy

Applicant must be 18 years of age or older

National Insurance number

--

This box need not be completed if you are an individual not liable to pay UK national insurance.

Place of birth

--

Correspondence Address

Is the address the same as (or similar to) the address given in section one?

☐ Yes

☒ No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Building number or name	Optimised Training Centre
Street	1 Guildford Street
District	
City or town	Birmingham
County or administrative area	
Postcode	B19 2HN
Country	United Kingdom

Continued from previous page...

Additional Contact Details

Are the contact details the same as (or similar to) those given in section one?

☒ Yes

☐ No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

E-mail

Telephone number

Other telephone number

Section 3 of 9

THE PREMISES

I, the proposed user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry out a temporary activity at the premises described below.

Give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references). (See also guidance on completing the form, note 2)

* Does the premises have an address?

☒ Yes

☐ No

Address

Is the address the same as (or similar to) the address given in section one?

☒ Yes

☐ No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

* Building number or name

Flamingo Cafe & Restaurant

* Street

81-83 Villa Road

District

* City or town

Birmingham

County or administrative area

* Postcode

B19 1NH

* Country

United Kingdom

* Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)?

☐ Neither

☒ Premises licence

☐ Club premises certificate

* Premises licence number

4379/2

Location Details

* Provide further details about the location of the event

Event will be held at the Flamingo Cafe & Restaurant

Continued from previous page...

If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, give a description and details below (see also guidance on completing the form, note 3)

Describe the nature of the premises below (see also guidance on completing the form, note 4)

Cafe and restaurant

Describe the nature of the event below (see also guidance on completing the form, note 5)

Private Birthday party. There will be maximum of 35 people including staff and there will be 3 SIA approved security guards both inside and on the door throughout the event. No persons under the age of 18 will be allowed on the premises during the event. NO adult entertainment will be allowed.

Section 4 of 9

LICENSABLE ACTIVITIES

State the licensable activities that you intend to carry on at the premises
(see also guidance on completing the form, note 6):

- ☒ The sale by retail of alcohol
- ☐ The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- ☒ The provision of regulated entertainment
- ☐ The provision of late night refreshment
- ☐ The giving of a late temporary event notice

(See also guidance on completing the form, note 7).

Late notices can be given no later than 5 working days but no earlier than 9 working days before the event.

(See also guidance on completing the form, note 8).

Event Dates

There must be a period of at least 10 working days between the date you submit this form and the date of the earliest event when you will be using these premises for licensable activities.

State the dates on which you intend to use these premises for licensable activities

(see also guidance on completing the form, note 9)

Event start date

19 / 10 / 2019
dd mm yyyy

The maximum period for using premises for licensable activities under the authority of a temporary event notice is 168 hours or seven days.

Event end date

20 / 10 / 2019
dd mm yyyy

Continued from previous page...

State the times during the event period that you propose to carry on licensable activities (give times in 24 hour clock)

23:00 to 04:00

(see also guidance on completing the form, note 10)

State the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers

35

Note that the maximum number of people cannot exceed 499.

(see also guidance on completing the form, note 11)

If the licensable activities will include the supply of alcohol, state whether the supplies will be for consumption on or off the premises, or both

(see also guidance on completing the form, note 12):

- ☒ On the premises only
☐ Off the premises only
☐ Both

Section 5 of 9

RELEVANT ENTERTAINMENT (See also guidance on completing the form, note 13)

State if the licensable activities will include the provision of relevant entertainment. If so, state the times during the event period that you propose to provide relevant entertainment

Recorded music 23:00 to 04:00. The DPS and staff will make sure that the sound of the music does not escape the building and will be monitored at all times throughout the event.

Section 6 of 9

PERSONAL LICENCE HOLDERS (See also guidance on completing the form, note 14)

Do you currently hold a valid personal licence?

☒ Yes ☐ No

Provide the details of your personal licence below.

Issuing licensing authority

Manchester City Council

Licence number

200465

Date of issue

21 / 07 / 2017
dd mm yyyy

Any further relevant details

Continued from previous page...

Section 7 of 9

PREVIOUS TEMPORARY EVENT NOTICES (See also guidance on completing the form, note 15)

Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice?

☐ Yes

☒ No

Have you already given a temporary event notice for the same premises in which the event period:

a) Ends 24 hours or less before; or

☐ Yes

☒ No

b) Begins 24 hours or less after the event period proposed in this notice?

Section 8 of 9

ASSOCIATES AND BUSINESS COLLEAGUES (See also guidance on completing the form, note 16)

Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?

☐ Yes

☒ No

Has any associate of yours already given a temporary event notice for the same premises in which the event period:

a) Ends 24 hours or less before; or

☐ Yes

☒ No

b) Begins 24 hours or less after the event period proposed in this notice?

Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?

☐ Yes

☒ No

Continued from previous page...

Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period:

☐ Yes

☒ No

- a) Ends 24 hours or less before; or
- b) Begins 24 hours or less after the event period proposed in this notice?

Section 9 of 9

CONDITION (See also guidance on completing the form, note 18)

It is a condition of this temporary event notice that where the relevant licensable activities described in Sections 4 and 5 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

This formality requires a fixed fee of £21

DECLARATION (See also guidance on completing the form, note 19)

* THE INFORMATION CONTAINED IN THIS FORM IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT IT IS AN OFFENCE:

* (I) TO KNOWINGLY OR RECKLESSLY MAKE A FALSE STATEMENT IN CONNECTION WITH THIS TEMPORARY EVENT NOTICE AND THAT A PERSON IS LIABLE ON SUMMARY CONVICTION FOR SUCH AN OFFENCE TO A FINE OF ANY AMOUNT; AND

* (II) TO PERMIT AN UNAUTHORISED LICENSABLE ACTIVITY TO BE CARRIED ON AT ANY PLACE AND THAT A PERSON IS LIABLE ON SUMMARY CONVICTION FOR ANY SUCH OFFENCE TO A FINE OF ANY AMOUNT, OR TO IMPRISONMENT FOR A TERM NOT EXCEEDING SIX (6) MONTHS, OR TO BOTH.

☒ Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name

Mijanur Rahman

* Capacity

Agent

* Date

20 / 09 / 2019
dd mm yyyy

Add another signatory

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...

2. Go back to <https://www.gov.uk/apply-for-a-licence/temporary-event-notice/birmingham/apply-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

From: Martin Key on behalf of Pollution Team
Sent: 25 September 2019 09:35
To: Licensing Online;
Cc:
Subject: RE: Online TEN - Flamingo Cafe & Restaurant Ref: 869203
Importance: High

Hi

I am responding on behalf of the Environmental Health team as a responsible authority. I have received an application for a TEN for regulated entertainment from Samsom Kahsay for 19 and 20 October 2019 between the hours of 23.00 and 04.00 at Flamingo Café and Restaurant, 81 – 83 Villa Road, Birmingham, B19 1NH.

When the original application for the premises licence was submitted we made a representation which following a hearing resulted in the removal of regulated entertainment and the agreement of a number of conditions including one prohibiting live and recorded music. This TEN is for regulated entertainment until 04.00 and there are no effective operational controls proposed.

I have concerns that permitting the provision of regulated entertainment until 04.00 at this location would not meet the public nuisance licensing objective and I would object to the grant of the TEN on the basis of the impact on the licensing objective of the prevention of public nuisance.

Best Regards

Martin Key on behalf of Pollution Team
 Environmental Protection Officer

Environmental Health | Regulation & Enforcement Division

✉: Environmental Health, Manor House, PO Box 16977, Birmingham, B2 2AE
 (Office Site: Environmental Protection, 1st Floor, 40 Moat Lane, Birmingham, B5 5BD)

🌐: www.birmingham.gov.uk/eh | Facebook: ehbbham | Twitter: @ehbbham

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LICENSING ACT 2003PREMISES LICENCE

Premises Licence Number:

4379 / 2

Part 1 - Premises details:**Postal address of premises, or if none, Ordnance Survey map reference or description**Flamingo Cafe & Restaurant
81-83 Villa Road**Post town:**

Birmingham

Post Code:

B19 1NH

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

N/A

Licensable activities authorised by the licence

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

The times the licence authorises the carrying out of licensable activities

Sunday - Thursday	11:00	-	23:30	M1
	23:00	-	23:30	L
Friday - Saturday	11:00	-	01:30	M1
	23:00	-	01:30	L

The opening hours of the premises

Sunday - Thursday	11:00	-	00:00
Friday - Saturday	11:00	-	02:00

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

On Supplies

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Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Mr Samsom Kahsay	
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 Dawit Kahsay	
Post town:	Post Code:
Telephone Number: N/A	
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 10389	Issuing Authority BIRMINGHAM CITY COUNCIL

Dated 21/08/2017



David Kennedy
Principal Licensing Officer
For Director of Regulation and Enforcement

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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.

The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises— (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to— (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or (ii) drink as much alcohol as possible (whether within a time limit or otherwise); (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective; (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective; (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner; (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

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.

The responsible person must ensure that— (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures— (i) beer or cider: ½ pint; (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and (iii) still wine in a glass: 125 ml; (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available."

(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.

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(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

Members of staff will receive regular training in their responsibilities under the Licensing Act 2003, to include use of the proof of age scheme adopted by the premises. Such training to be documented and records shall be retained at the premises and produced to responsible authorities upon reasonable request.

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

CCTV to be installed and maintained to the satisfaction of West Midlands Police. The CCTV system to be in full working order at all times when the premises are open for licensable activities. The CCTV system shall record and store images for a minimum of 28 days. Images to be made available to West Midlands Police and Local Authority officers upon request.

Premise to operate a drugs policy. Copy to be supplied to the West Midlands Police Licensing Department at Steelhouse Lane Police Station.

Bottles and glasses will not be allowed outside the premises. Signage will be displayed inside the premises enforcing this.

An incident book will be implemented at the premises and will be available for inspection immediately by any responsible authority.

A refusal log to be maintained at the premises which will be available for inspection by any of the responsible authorities. Staff to record all refusals of sale of alcohol.

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 premises will operate a proof of age scheme via acceptable forms of identification and incorporating the "Challenge 21" system.

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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

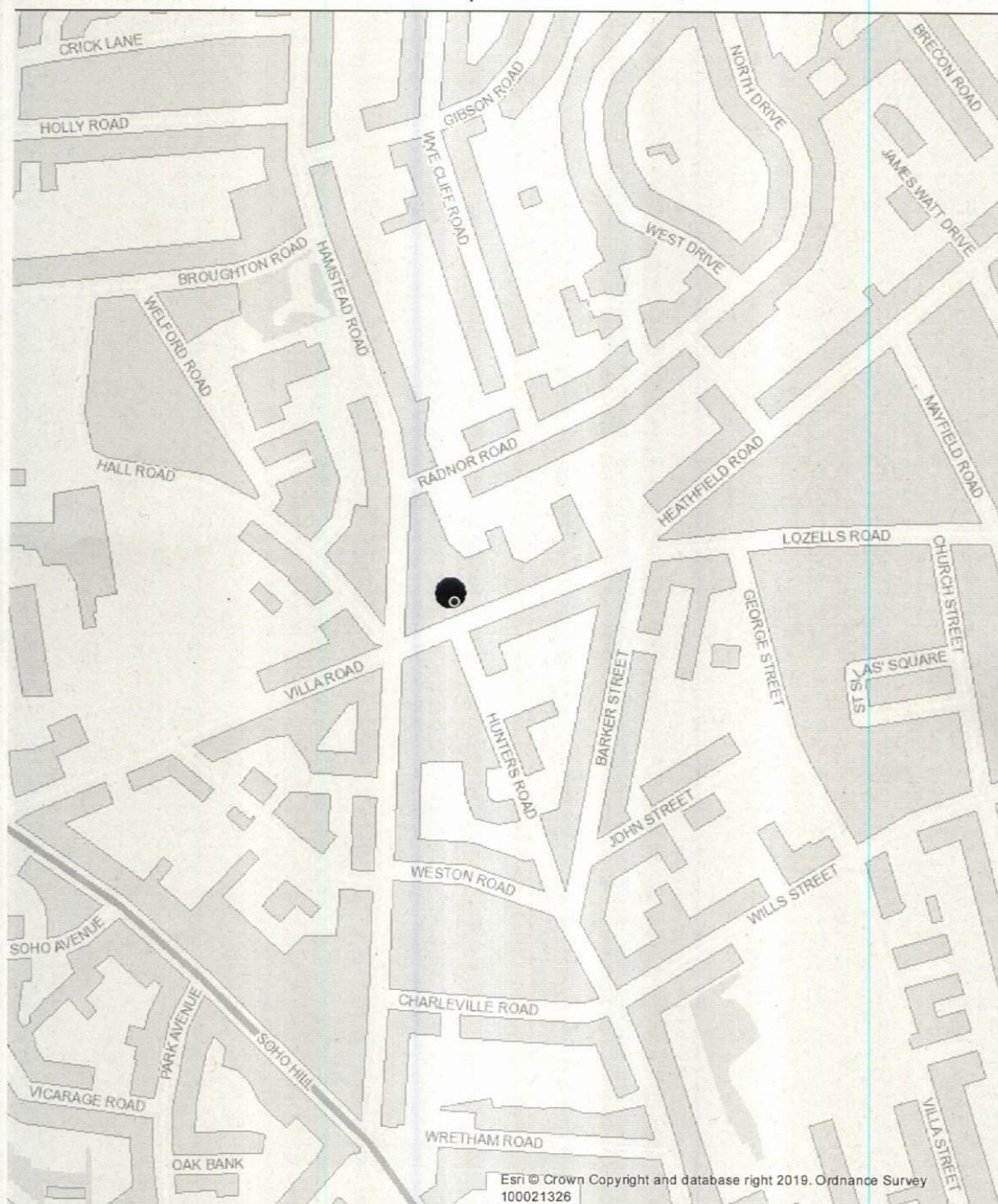
3e) Committee conditions to promote the protection of children from harm

N/A

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Annex 4 – Plans

The plan of the premises with reference number **102276-4379/2** 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.



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City Council

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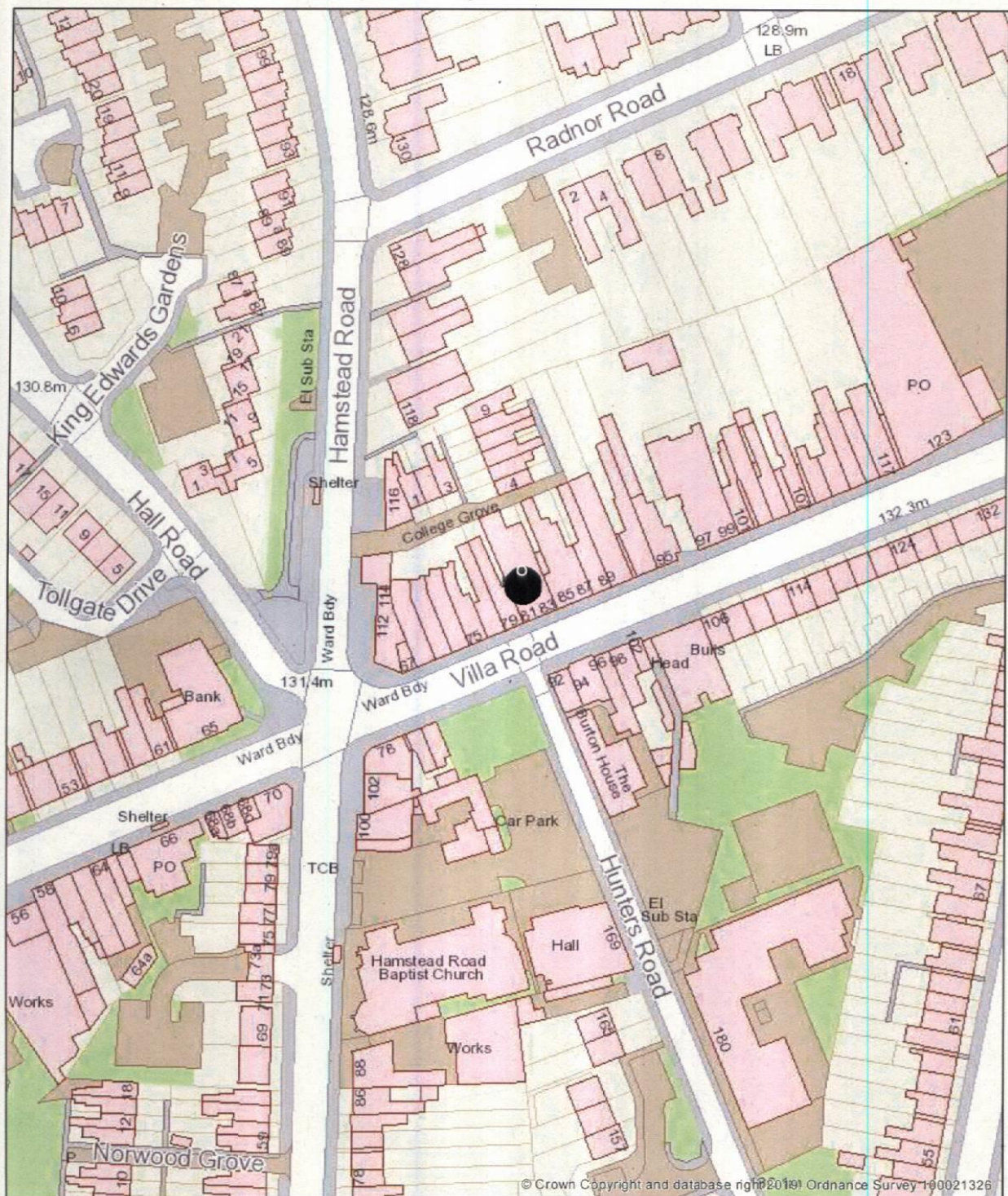
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