

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee A
Report of:	Interim Assistant Director of Regulation & Enforcement
Date of Meeting:	Monday 13th January 2020
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	D & B Wines, 201 Dudley Road, Winson Green, Birmingham B18 7QY
Ward affected:	North Edgbaston
Contact Officer:	Bhupinder 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 18 th November 2019 from the Chief Inspector of Weights & Measures in respect of D & B Wines, 201 Dudley Road, Winson Green, Birmingham B18 7QY. 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:

The Chief Inspector of Weights & Measures applied on 18th November 2019 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for D & B Wines, 201 Dudley Road, Winson Green, Birmingham B18 7QY.

A representation has been received from West Midlands Police, as a responsible authority.
See Appendix 1.

Review application is attached. See Appendix 2.

The Premises Licence is attached at Appendix 3.

Site location plans are attached at Appendix 4.

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.

The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -

- a. The prevention of crime and disorder;
- b. Public safety;
- c. The prevention of public nuisance; and
- d. The protection of children from harm.

6. List of background documents:

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

7. Options available

Modify the conditions of Licence
Exclude a Licensable activity from the scope of the Licence
Remove the Designated Premises Supervisor
Suspend the Licence for a period not exceeding 3 months
Revoke the Licence
No Action

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.

Entered BN
6/12/2019

From: bw licensing <bw_licensing>
Sent: 04 December 2019 16:48
To: TradingStandards; Licensing Online; bw licensing
Subject: RE: new licence review application - D&B Wines 201 Dudley Road, Winson Green, Birmingham B18 7QY

Dear Licensing,

West Midlands Police have received the review application, submitted on behalf of the chief officer of Weights and measures for BCC. West Midlands Police fully support this application, and are particularly disturbed to read the evidence surrounding this review application and the apparent lax attitude that the licensed premises pay towards the licensing objectives.

West Midlands Police are concerned that after officers from our response unit found a 15yr old intoxicated female in a park, with her friends stating to officers that she had bought the alcohol from D&B wines. This information was then passed to both trading standards and BCC licensing enforcement.

Whilst not wishing to repeat the information in the review application (which is fully supported by us), it is apparent that Trading Standards and BCC licensing enforcement has given ample and sufficient advice to the premises, whilst not receiving any credible engagement back. Months after the advice was given a test purchase operation was undertaken, and it is noted that the volunteer was in the same age and gender bracket of the person found in the park, and the premises sold alcohol to the child.

It has to be noted again that the type of alcohol sold is a type and brand of alcohol popular with younger drinkers.

West Midlands police are concerned that the person who sold the alcohol to the test purchaser was the same individual with whom officers had given advice to in a previous visit

It would appear that the DPS/PLH has a very distant operating style where staff are left in charge, with little or no command of the English language, staff with no understanding or comprehension of the licensing legislation.

The sale of alcohol to minors is a serious offence and issue. Alcohol is classed a drug and has wide ranging effects on the body, which are easily exacerbated in the young as they are not accustomed to the effects. This puts people in very vulnerable states as clearly seen with the incident where response officers found the 15yr old girl, to the point where they are more susceptible to things happening to them.

The Licensing Act has a list of serious offences contained within the 182 guidance. Sec 11.27 deems a serious offence to be

- For the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people

Sec 11.28 states that even on the first review application, revocation should be seriously considered. Even if this review was just from following a failed test purchase, West Midlands Police would be seeking revocation, however as there are aggravating features to this application West Midlands Police believe that the only option available is for the premise licence to be revoked.

West Midlands Police fully support the application made by Trading Standards and wish to join in the review application

regards

; Abs Rohomon

**PC 4075 Rohomon
BW Licensing
Police headquarters
Lloyd House
Colmore Circus
Birmingham
B4 6NQ**

Internal :

External :

Follow us on Twitter - @brumcopslicensing

West Midlands Police

Tel.

Email: a.rohomon

Website: www.west-midlands.police.uk

Twitter: www.twitter.com/brumpolice

Facebook: www.facebook.com/westmidlandspolice

YouTube: www.youtube.com/westmidlandspolice

Vision statement - Serving our communities, protecting them from harm

**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 Martin Williams (on behalf of Donna Bensley Chief Inspector of Weights & Measures)

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

Postal address of premises or, if none, ordnance survey map reference or description	
D&B Wines 201 Dudley Road Winson Green	
Post town Birmingham	Post code (if known) B18 7QY

Name of premises licence holder or club holding club premises certificate (if known) Mr Marius MICLESCU

Number of premises licence or club premises certificate (if known) 1159

Part 2 – Applicant details

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)

☐

Premises licence review D&B Wines 9541790

Page 1

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

Please tick ✓ yes

Mr ☐

Mrs ☐

Miss ☐

Ms ☐

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes
☐

Current postal
address if
different from
premises
address

Post town

Post Code

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address; Martin Williams Birmingham Trading Standards Manor House 40 Moat Lane Birmingham B5 5BD Our Ref: 9541790
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 ✓

Yes

Yes

☐

Yes

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

On the evening of 1 September 2019 police officers from Newtown police station response team were called to an incident in Summerfield Park and found a 15 year old girl unconscious due to alcohol consumption.

Her friends stated that she had gone into D&B Wines, 201 Dudley Road, Winson Green, Birmingham, B18 7QY and had been sold vodka and Lambrini wine. The girl was apparently clearly underage, not much over 5ft tall and would in no way have passed a Challenge 25 test.

This information was passed to both Trading Standards and Birmingham City Council licensing by Police Officer 22046 MOORE. A complaint was raised and given reference number 9483904

Following on from this on 18 September 2019 a joint visit was made to the shop by officers from both agencies; officer being Trading Standards Enforcement Officers John BRADBURY and Floyd ROWE with Licensing Enforcement Officer Sharon WATTS

A trader's notice number 13037 was issued to the premises licence holder by Trading Standards advising that it was illegal to sell alcohol and tobacco to persons under eighteen, it also advised that trading standards undertake test purchases and if a sale was made then a review of the licence would be requested.

Officer WATTS was concerned that Mr Adi Romulus ILEANA, who was in charge at the shop at the time, did not appear to speak English and was unable to say if he had been authorised to sell alcohol or explain his responsibilities regarding the premises licence.

The DPS/ PLH, Mr Marius MICLESCU was not present at the time of the visit and officers were advised that he was abroad.

Trading Standards had a further meeting with the wife of Mr MICLESCU on 27th September 2019 as they were still concerned about the running of the premises. Further advice was given about preventing underage sales of alcohol or tobacco products.

On Saturday 2 November 2019 Trading Standards undertook a test purchasing exercise. They were assisted in the exercise by a 14 year old female volunteer.

At approximately 12.50 pm the volunteer was able to purchase a large bottle of 4% alcohol WKD blue from the shop. The sale was observed by Trading Standards Officer Martin WILLIAMS.

The person who sold it to her was Adi Romulus ILEANA. He did not ask her for any ID or what her age was.

On returning to the shop officers found that Mr ILEANA was unable or unwilling to give any explanation as to why he made the sale. (Eventually a family member had to be called to act as an interpreter). There was no statutory 'under 18 tobacco' notice on display in the shop or challenge 25 poster. Officers also found 3 packs of illicit hand rolling tobacco in a small fridge in the shop that appeared to be counterfeit. The Premises Licence Holder who is also the Designated Premises Licence Holder was not available. There was no other personal licence holder on the premises.

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

The sale of alcohol to persons under the age of 18 is a serious offence under The Licensing Act 2003.

It also has serious consequences when it gets into the hands of young people as illustrated in the sale made to the first young girl in this case.

This shop had at least two warnings from Trading Standards not to sell alcohol to underage people.

There is no excuse at all for making the sale to the volunteer; it appears to be a badly run premises with no control by the PLH/DPS.

The original incident in itself should have been a sufficient deterrent. Particularly as the incident had made the 15 year old girl unwell and could have ended up much worse.

It appears that the man left in charge at the shop, Mr Adi Romulus ILEANA cannot or does not wish to communicate to the authorities. He also appears unable to be aware of his responsibilities under the licensing Act.

The person who is the DPS and PLH, Marius MICLESCU was not present in the shop on any of the visits by Trading Standards which is also of concern as he does not appear to be taking any responsibility. On one occasion he resorted to using his wife to speak to Trading Standards and on two others a young man had to be called to interpret for him.

Previous history of this shop.

The current licence for this premises was granted on 7 September 2017.

On 1 October 2018 Trading Standards received a complaint from a member of the public that the shop was selling fake cigarettes and was also selling alcohol to underage people. This was given reference 9154759.

Following this information an officer went to D&B Wines on 19 October 2018 and gave advice on illicit cigarettes and alcohol. Whilst at the shop the officer witnessed three attempted sales of single cigarettes by the person serving.

A trader's notice number 12689 was issued to the licence holder Mr MICLESCU on this occasion and an information pack was given including tobacco and alcohol notices to display. A poster advising not to sell single cigarettes and challenge 25 posters were also sent to the shop a few days later. Neither Mr MICLESCU nor the then DPS Mr Sukhwant BAHIA were present. There was no other personal licence holder on the premises.

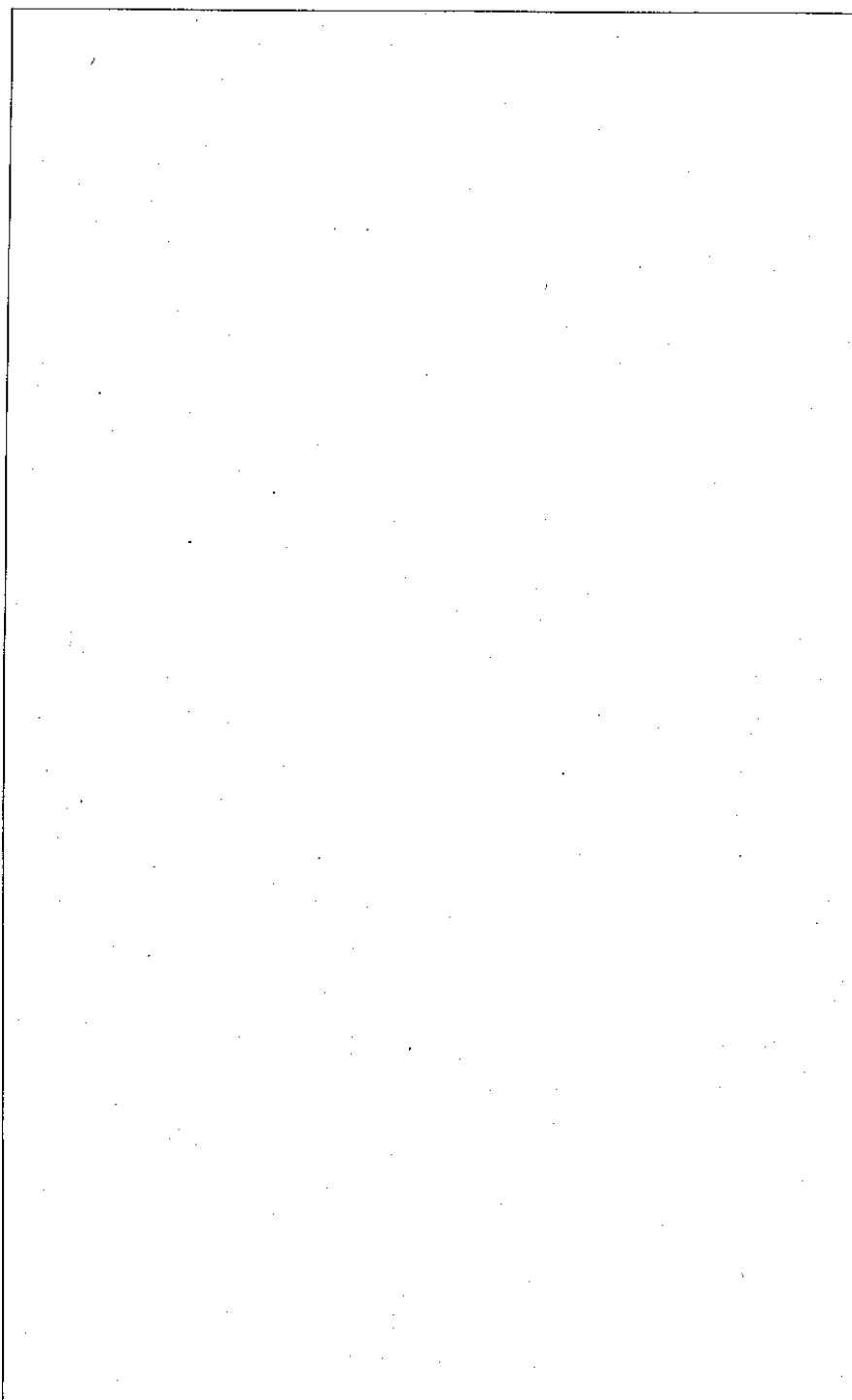
Recommendations.

Given the history and number of times this shop has been warned about underage sales and how to comply with Trading Standards and Licensing Laws I do not think under the current management things will change for the better.

The serious incident with the 15 year old girl is as a direct consequence of the shops refusal to act responsibly and comply with the law.

They have breached three of the licensing objectives and have little regard for the law.

I would ask that the Committee consider all outcomes at their disposal but due to the seriousness of the matters would recommend that the best course of action is for the licence to be revoked.



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

No

If yes please state the date of that application

Day	Month	Year
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

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate **YES**
- I understand that if I do not comply with the above requirements my application will be rejected **YES**

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

Part 3 – Signatures (please read guidance note 4)

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

Signature

Date 18/11/19

Capacity Trading Standards Officer

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
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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LICENSING ACT 2003PREMISES LICENCE

Premises Licence Number:

1159 / 3

Part 1 - Premises details:**Postal address of premises, or if none, ordnance survey map reference or description**D & B Wines
201, Dudley Road
Winson Green**Post town:**

Birmingham

Post Code:

B18 7QY

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

N/A

Licensable activities authorised by the licence

M2 Sale of alcohol by retail (off the premises)

The times the licence authorises the carrying out of licensable activities

Monday - Saturday	11:00	-	23:00	M2
Sunday	12:00	-	22:30	M2
Christmas Day	12:00	-	15:00	M2
	19:00	-	22:30	M2
Good Friday	08:00	-	22:30	M2

The opening hours of the premises

Not Specified

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

Off Supplies

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Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Mr Marius Miculescu	
Post town:	Post Code:
Telephone Number: Not Specified	
Email	

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 Marius Miculescu	
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 16/000269/LAPER	Issuing Authority SANDWELL METROPOLITAN BOROUGH COUNCIL

Dated 07/09/2017

SHAID YASSER
Senior 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 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.

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

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

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Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

No enforceable conditions identified from operating schedule.

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

No enforceable conditions identified from operating schedule.

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

No enforceable conditions identified from operating schedule.

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

No enforceable conditions identified from operating schedule.

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

No enforceable conditions identified from operating schedule.

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Annex 3 – Conditions attached after hearing by licensing authority

3a) General committee conditions

N/A

3b) Committee conditions to promote the prevention of crime and disorder

N/A

3c) Committee conditions to promote public safety

N/A

3d) Committee conditions to promote the prevention of public nuisance

N/A

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

N/A

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Annex 4 – Plans

The plan of the premises with reference number **102498-1159/3** 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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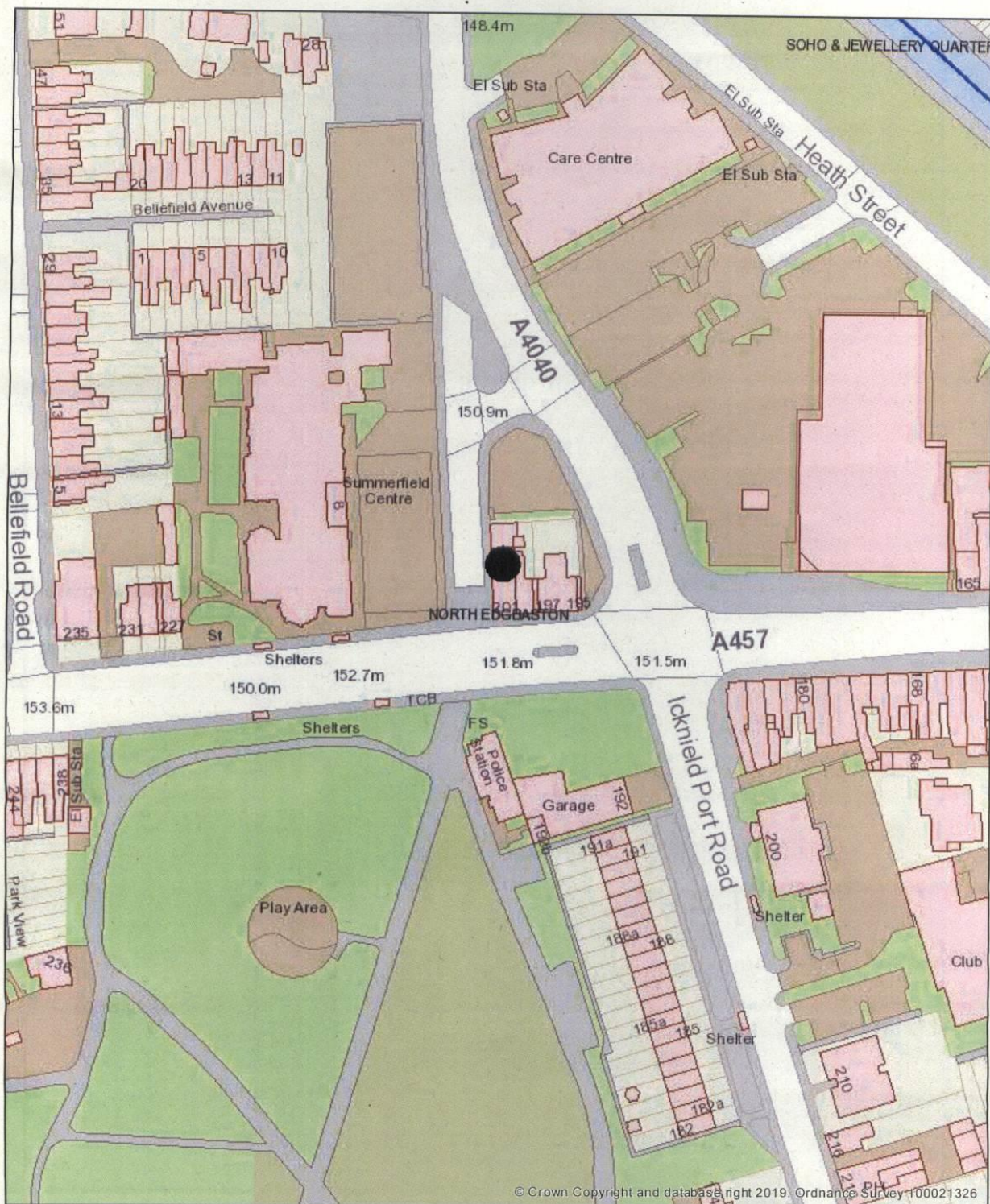
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