

***NB This meeting has been convened by virtue of the provisions of the Local Government Act 1972, (as amended) to consider this agenda and report as a matter of urgency as the Licensing Act 2003 requires Expedited Reviews to be determined within 48 working hours of receipt of the application for an expedited review of the premises licence.***

## **BIRMINGHAM CITY COUNCIL**

### **LICENSING SUB-COMMITTEE A**

**Monday 3 February 2020 at 0930  
hours in Ellen Pinsent Room,  
Council House, Birmingham**

## **A G E N D A**

### **1 NOTICE OF RECORDING**

Chairman to advise meeting to note that members of the press/public may record and take photographs except where there are confidential or exempt items.

### **2 DECLARATIONS OF INTERESTS**

Members are reminded that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

### **3 APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

**Attached**

### **4 SUBSIDE 57 HIGH STREET, DIGBETH, BIRMINGHAM B5 6DA- LICENSING ACT 2003 AS AMENDED BY THE VIOLENT CRIME REDUCTION ACT 2006 - APPLICATION FOR EXPEDITED REVIEW OF PREMISES LICENCE: CONSIDERATION OF INTERIM STEPS**

N.B. Application scheduled to be heard at 0930 hours.

Documents submitted.

- A. Certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003
- B. Application for Review of Licence
- C. Copy of Premises Licence
- D. Location maps

West Midlands Police have applied for an expedited review of the premises licence in respect of Subside, 57 High Street, Digbeth, Birmingham B5 6DA. The application has been made under Section 53A of the Licensing Act 2003 (as amended) and has been accompanied by a certificate signed by a senior member of the force, stating that in their opinion the licensed premises have been associated with serious crime and disorder. (See A and B above)

In accordance with the regulations, the licensing authority has given the premises licence holder and responsible authorities a copy of the application for review and a copy of the certificate.

This hearing has been arranged in order to consider whether it is necessary to take any interim steps in respect of the licence pending the determination of the review. The Premises Licence is included at item C.

The interim steps that must be considered at the hearing are:

- Modification of the conditions of the premises licence;
- Exclusion of the sale of alcohol by retail from the scope of the licence;
- Removal of the designated premises supervisor from the licence;
- Suspension of the licence

## **5     OTHER URGENT BUSINESS**

To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.

4A

# West Midlands Police

## CERTIFICATE UNDER SECTION 53A (1)(B) OF THE LICENSING ACT 2003

I hereby certify that in my opinion the premises described below are associated with serious crime and disorder

**Premises: Subside**

**Premise Licence Number: 2246**

**Premise Licence Holder: Subside Bar limited**

**Designated Premise Supervisor: Benjamin MORTIBOY**

**I am a Superintendent in West Midlands Police.**


I am giving this certificate because I am in the opinion that the procedures under the Licensing Act are inappropriate in this case because the standard review procedures are thought to be inappropriate due to the seriousness of the crime, and the serious management failings of the premises concerned.

The seriousness of the crime being committed with the basis of the intelligence that led to the warrant being granted warrant the use of this power. I have considered the use of the normal review procedure but I do not feel this would be appropriate in these circumstance due to the above reasons, and the fact that to maintain the licensing objective of preventing crime and disorder the normal review procedure would not be sufficient.

The severity of the incidents is a matter that needs to be brought to the attention of the Licensing Committee immediately.

The concern of West Midlands Police is that if steps are not taken to consider the running of these premises they will continue to be used in the manner in which they were discovered on the 31<sup>st</sup> January 2020. I am conscious of the guidance on the use of "Expedited Reviews" and given the emphasis that is given to use of this power to tackle serious crime and disorder, my feelings that this process is deemed appropriate are further enforced.

Signed

 12.8 GREEN (Supt)



4B



## 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 the 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

**I - Superintendent Ian Green**

**(on behalf of) the chief officer of Police for the West Midlands Police area apply for the review of a premises licence under section 53A of the Licensing Act 2003**

1. Premises details: **SUBSIDE**  
**57 High Street**  
**Digbeth**

Postal address of premises, (or if none or not known, ordinance survey map reference or description):

Post Town: **Birmingham**

Post Code (if known): **B5 6DA**

2. Premises Licence details:

Name of premise licence holder (if known): **Subside Bar limited**

Number of premise licence (if known): **2246**

3. Certificate under section 53A (1)(B) of the Licensing Act 2003 (Please read guidance note 1)

I confirm that this is a certificate has been given by a senior member of the police force for the police area above that in his/her opinion the above premises are associated with serious crime or serious disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)



4. Details of association of the above premises with serious crime, serious disorder or both:

On Friday 31<sup>st</sup> January 2020, officers from West Midlands Police executed a warrant under the misuse of drugs act, at the above premises.

This followed intelligence that had been received that the premises and the manager was involved in the dealing of drugs from the premises

Warrants were executed at both the licensed premises and the address of the manager.

In the safe officers discovered significant quantities of different types of class A drugs, and a substantial amount of cash all together. The cash was in a black pouch next to the drugs, against the general cash which was in a different part of the safe.

At the home address of the manager more drugs were discovered as well as an array of weapons, including knives, cross bows and air weapons.

The amount discovered has led to the arrest of the manager for the offence of possession with intent to supply.

Documentation seized from the premises does not show that the drugs were seized from customers, or gives an explanation as to the cash in the black pouch. The drugs are in what we would describe as dealer bags. The intelligence on how the drugs operation works within the premises is supported by what the officers found.

A diary has been found with an entry from the 12<sup>th</sup> December 2019, showing that they have evicted people for dealing drugs, but officers have so far not seen any entries to show that drugs were being seized.

This is clearly an on-going criminal investigation, however there is a significant concern that the premises are being used to support the supply of class A drugs. On indictment this offence carries a life sentence and/or fine, and so would be defined as a serious offence under the RIPA regulations.

It is also noted that allowing a premises to be used for the supply of drugs controlled under the Misuse of Drugs Act 1971 is deemed a serious offence under the Licensing Act, and is contained within section 11.27 of the section 182 guidance.

The concern for West Midlands Police is that if interim steps are not undertaken that the premises will continue to be used in such a manner, not only contravening the crime and disorder objective but also placing the public at risk.

West Midlands Police are seeking the immediate suspension of the premise licence.

(Please read guidance note 2)

Signature of applicant:



Date: 31/1/20

Rank/Capacity: Supt 1218 GRCW

Contact details for matters concerning this application: Pc 4075 Abdool ROHOMON

Address: Licensing Dept c/o Birmingham Central Police Station, Birmingham

Telephone Number(s): 0121 626 6099

E-mail - bw\_licensing@west-midlands.pnn.police.uk

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious Disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder or both.





LICENSING ACT 2003PREMISES LICENCE

Premises Licence Number:

2246 / 7

**Part 1 - Premises details:**

Postal address of premises, or if none, Ordnance Survey map reference or description Subside 57 High Street Digbeth	
Post town: Birmingham	Post Code: B5 6DA
Telephone Number:	

Where the licence is time limited the dates N/A
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Licensable activities authorised by the licence	
E	Live music
F	Recorded music
G	Performances of dance
H	Anything of similar description to that falling within (live music), (recorded music) or (performances of dance)
L	Late night refreshment
M3	Sale of alcohol by retail (both on & off the premises)

The times the licence authorises the carrying out of licensable activities			
Monday - Sunday	00:00	-	23:59 E, F, G, H, M3
	23:00	-	L

The opening hours of the premises			
Monday - Sunday	00:00	-	23:59

Where the licence authorises supplies of alcohol whether these are on and/or off supplies On and Off Supplies
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**Part 2**

<b>Name, (registered) address, telephone number and email (where relevant) of holder of premises licence</b> Subside Bar Limited c/o Vinings Limited Grafton House Bulls Head Yard, Alcester	
<b>Post town:</b> Warwickshire	<b>Post Code:</b> B49 5BX
<b>Telephone Number:</b>	
<b>Email:</b> N/A	

<b>Registered number of holder for example company number or charity number (where applicable)</b> 06278870
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<b>Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol</b> Benjamin Mortiboy	
<b>Post town:</b>	<b>Post Code:</b>
<b>Telephone Number:</b> N/A	

<b>Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol</b>	
<b>Licence Number</b> 7785	<b>Issuing Authority</b> BIRMINGHAM CITY COUNCIL

Dated 10/03/2017

\_\_\_\_\_  
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. (3) Where

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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.

Each individual assigned to carrying out a security activity must be licensed by the Security Industry Agency.

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

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

The provision of regulated entertainment and late night refreshment to take place indoors only.

No adult entertainment or services permitted on the premises.

There shall be a minimum of 3 Security SIA licensed security staff on duty on each Friday to Saturday from 21:00-06:00.

CCTV shall be in use at the premises;

- Where a CCTV system is to be installed, extended or replaced, it shall be to an appropriate standard.

-Where a CCTV system is to be installed it shall be fully operational prior to any licensable activity taking place. Where existing CCTV systems are to be replaced or extended the replacement or extension of the system shall be concluded and the CCTV system shall be fully operational before any licensable activities take place.

The CCTV equipment shall be maintained in a good working order and continually record when licensable activity takes place and for a period of two hours afterwards.

The premises licence holder shall ensure images from the CCTV are retained for a period of 31 days. This image retention period may be reviewed as appropriate by the Licensing Authority.

The correct time and date will be generated onto both the recording and the real time image screen and there shall be clear signage indicating that CCTV equipment is in use and recording at the premises during all hours the premises is open to the public.

#### **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**

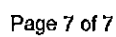
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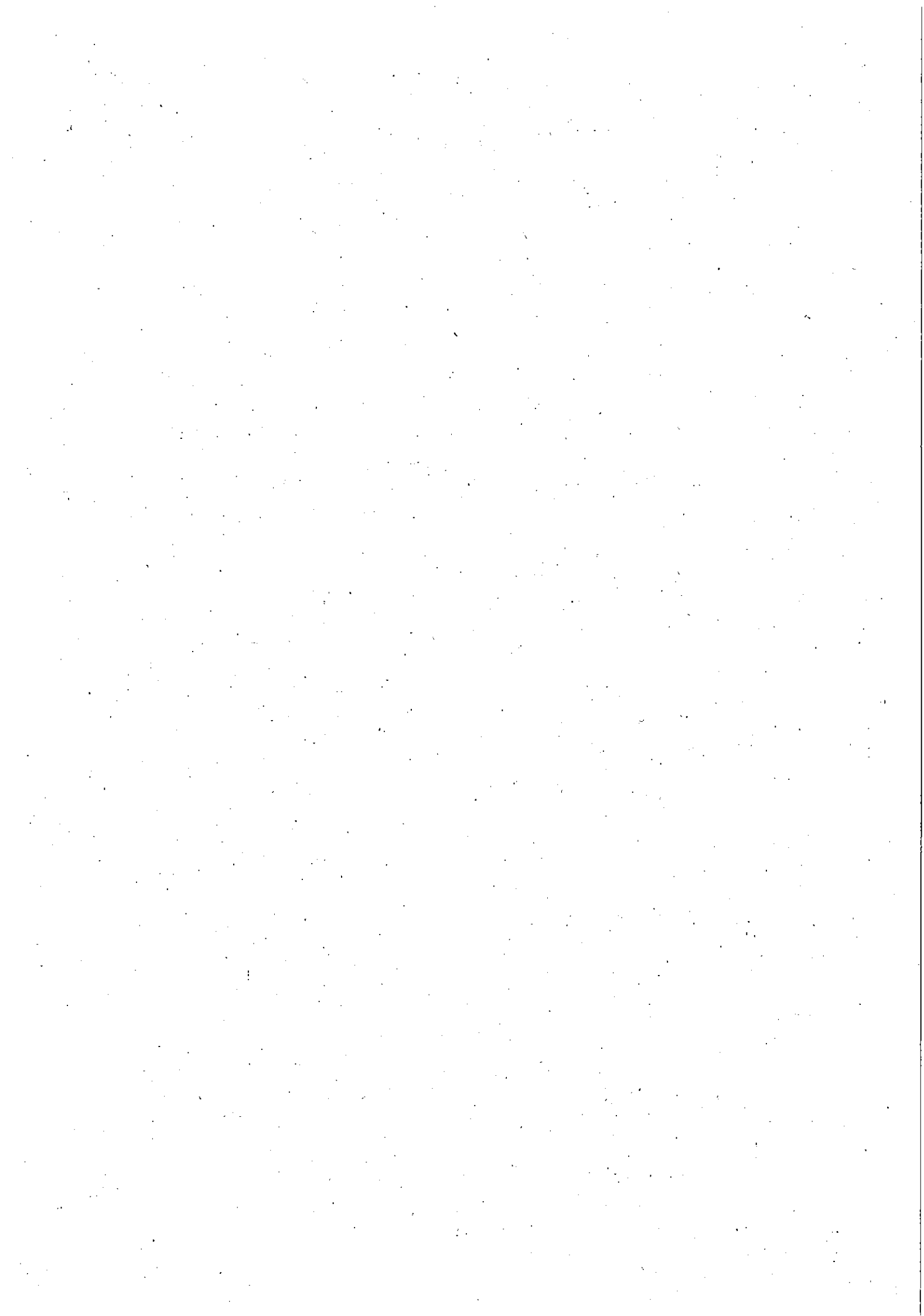
**3d) Committee conditions to promote the prevention of public nuisance**

N/A

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

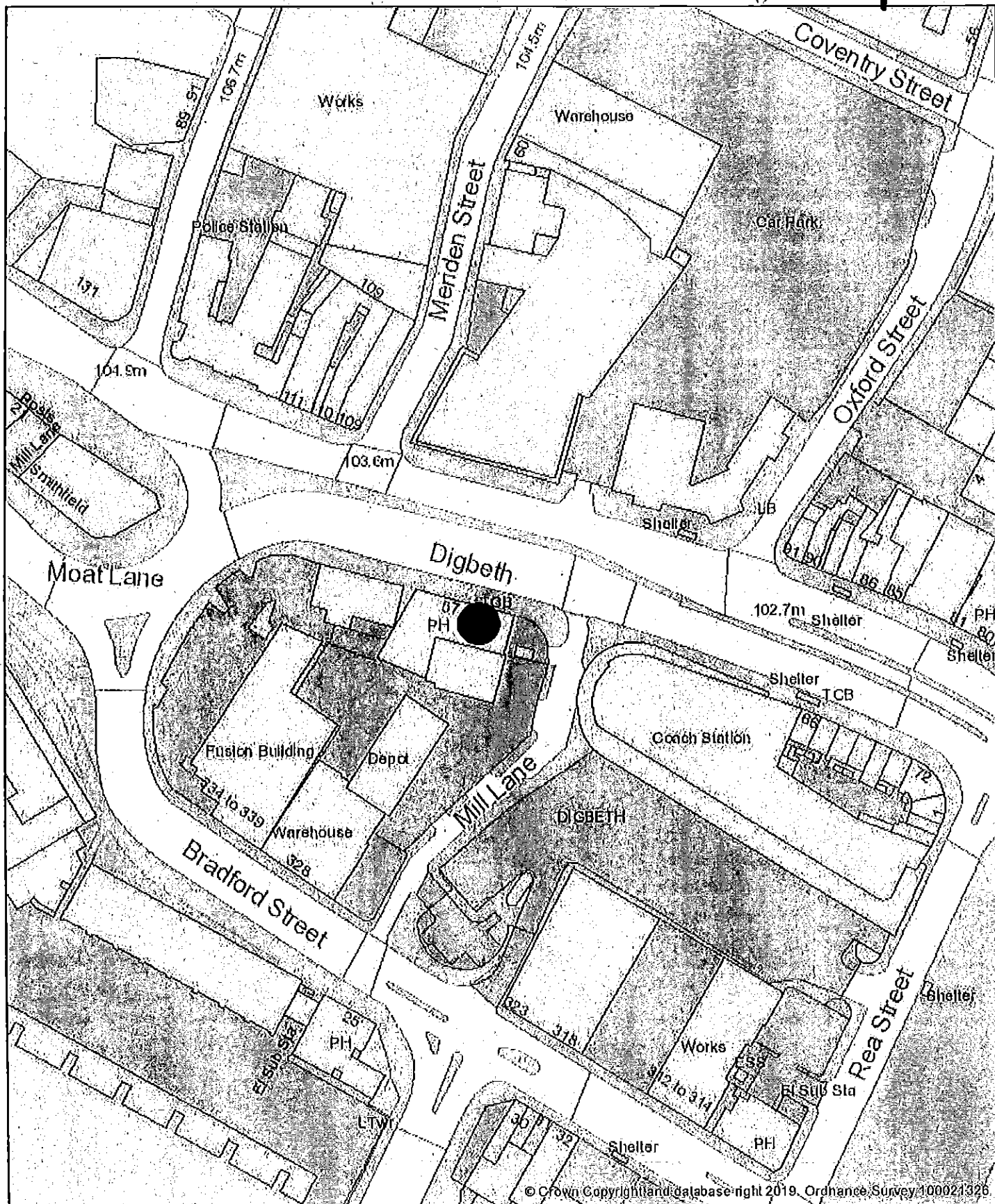
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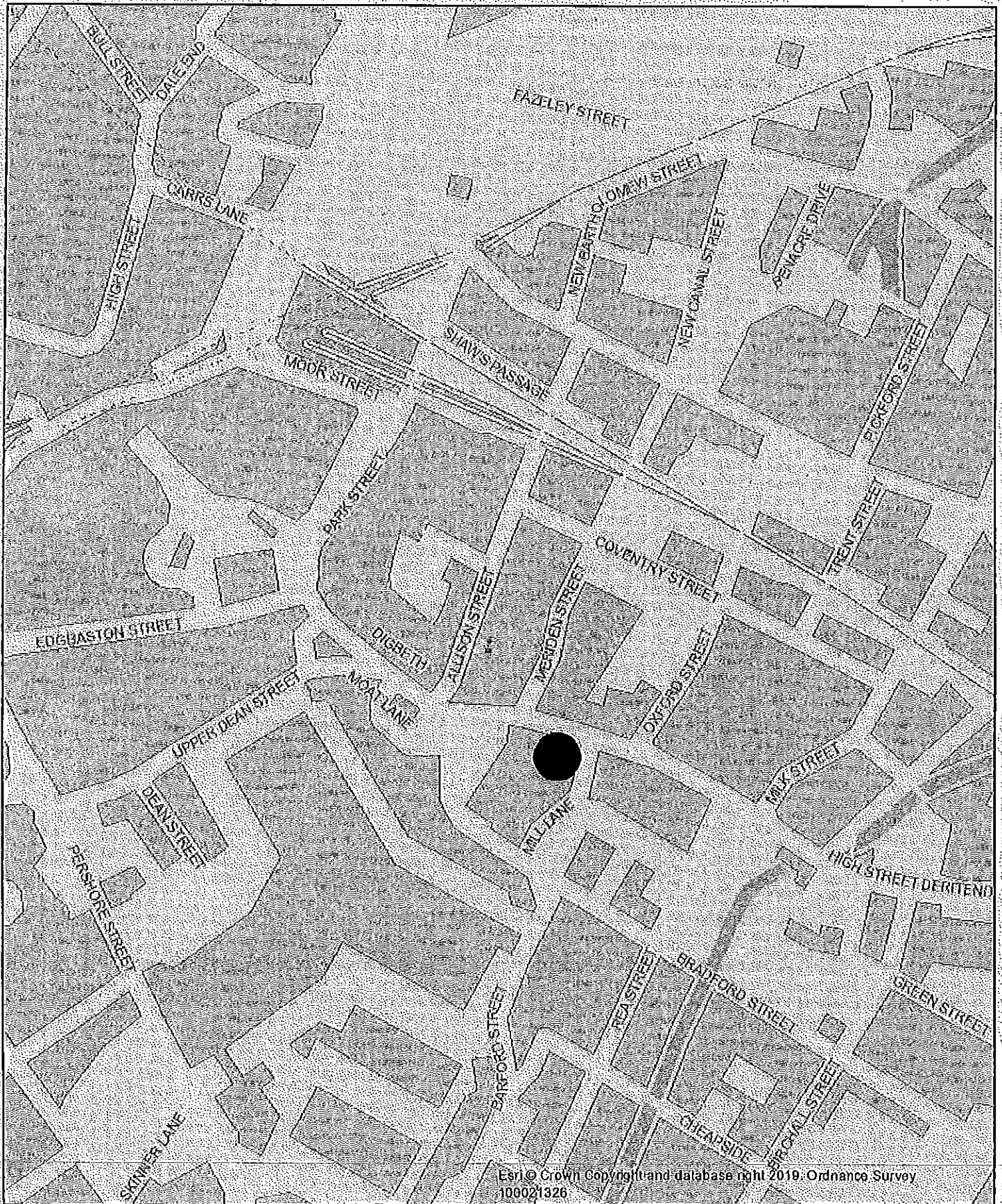






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**Birmingham**  
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