

# BIRMINGHAM CITY COUNCIL

## PUBLIC REPORT

<b>Report to:</b>	<b>Licensing Sub Committee A</b>
<b>Report of:</b>	<b>Interim Assistant Director of Regulation &amp; Enforcement</b>
<b>Date of Meeting:</b>	<b>Monday 17<sup>th</sup> January 2022</b>
<b>Subject:</b>	<b>Licensing Act 2003 Premises Licence – Review</b>
<b>Premises:</b>	<b>One Stop Food and Wine, 442 – 444 Birchfield Road, Perry Barr, Birmingham, B20 3JG</b>
<b>Ward affected:</b>	<b>Birchfield</b>
<b>Contact Officer:</b>	<b>David Kennedy, Principal Licensing Officer, <a href="mailto:licensing@birmingham.gov.uk">licensing@birmingham.gov.uk</a></b>

### **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 22<sup>nd</sup> November 2021 from the Chief Inspector of Weights & Measures in respect of One Stop Food and Wine, 442 – 444 Birchfield Road, Perry Barr, Birmingham, B20 3JG.

### **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.

<b>5. Relevant background/chronology of key events:</b>
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<p>The Chief Inspector of Weights &amp; Measures applied on 22<sup>nd</sup> November 2021 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for One Stop Food and Wine, 442 – 444 Birchfield Road, Perry Barr, Birmingham, B20 3JG.</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"><li>a. The prevention of crime and disorder;</li><li>b. Public safety;</li><li>c. The prevention of public nuisance; and</li><li>d. The protection of children from harm.</li></ul>
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<b>6. List of background documents:</b>
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<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>
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<b>7. Options available</b>
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<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>
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**From:** bw licensing

**Sent:** 03 December 2021 14:37

**To:** Gary Singh; Licensing;

**Subject:** NEW Licence Review - ONE STOP FOOD AND WINE, 442-444 Birchfield Road, Perry Barr, Birmingham, B20 3JG

Licensing,

WMP wish to make a representation in relation to this review.

WMP support the review made by Trading Standards under the protection of children from harm, public safety and prevention of crime & disorder licensing objectives.

The sale of alcohol to children can only be monetary led and profit orientated.

The effect of alcohol on children can be devastating and they are at increased risk of poor health, committing crime, being sexually exploited and poor educational results and missing periods of schooling..

The premises had conditions around the protection of children from harm, including a challenge 21 policy. Committee conditions were added which supersede this, amending it to a challenge 25 policy as well as more regular training. These were added in January 2018, following a review of the premises.

West Midlands Police have no confidence in the management of these premises promoting the licensing objectives especially the protection of children from harm, prevention of crime & disorder and public safety, putting money and profit over their legal and moral responsibilities.

Regards

Ben

**2413 PC Ben Reader**

Birmingham Central Licensing Team

**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 Gary SINGH (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**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b>  <b>One Stop Food &amp; Wine</b>  <b>442-444 Birchfield Road</b>  <b>Perry Barr</b>	
<b>Post town</b> BIRMINGHAM	<b>Post code (if known):</b> B20 3JG
<b>Name of premises licence holder or club holding club premises certificate (if known)</b> MR Ashiq HUSSAIN	
<b>Number of premises licence or club premises certificate (if known)</b> 3232	

**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

Page 1

**One Stop Food & Wine, 442-444 Birchfield Road, Perry Barr Birmingham B20 3JG**

3) a member of the club to which this application relates  
(please complete (A) below)

☐

**(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;  Mr Gary Singh Birmingham Trading Standards 1-3 Ashted Lock Way Aston Birmingham B7 4AZ  Our Ref: 010177516
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 | Please tick one or more boxes ✓ |
| 2) public safety                        | Yes                             |
| 3) the prevention of public nuisance    | Yes                             |
| 4) the protection of children from harm | <input type="checkbox"/>        |
|   | Yes                             |

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

On Wednesday 27<sup>th</sup> October 2021, Trading Standards conducted a city-wide enforcement exercise to ensure that traders were compliant with the current legislation with regard to age restricted sales.

At approximately 11.12 hrs, two female volunteers aged 15 and 16 were instructed to enter the premises of One Stop Food and Wines, 442-444 Birchfield Road, Perry Barr, Birmingham, and attempt to purchase a bottle of alcohol from the premises.

The two volunteers who were not wearing face masks, entered the store, walked over to the alcohol display shelving, and selected a bottle of Blue Alcohol mix.

The volunteers paid £2.79 after which they left the premises.

The sale was observed by Trading Standards Enforcement Officer Paul ELLSON who states that at no time were the two girls asked for any identification confirming their ages and no Challenge 21 or 25 was carried out.

After the sale had been concluded Officers ELLSON and WILLIAMS, a Trading Standards Officer, went back into the shop. Officer ELLSON identified the seller who, when asked, gave his name as being Jibin BENNY, the same person who had sold the bottle of VK Blue Alcohol mix (which contains 4% alcohol per volume) to the two volunteers.

The officers advised Mr BENNY that he had just sold alcohol to a person under the age of 18 which constituted an offence under The Licensing Act 2003 and that the facts would be reported.

This was confirmed in written form on a trader's notice No. 14176, which Mr BENNY signed and was given a copy to hand to the premises licence holder of the shop.

When asked, Mr BENNY was unable to locate and or provide the Officers with the Premises License or a sales refusal book.

Neither the Premises Licence Holder nor the Designated Premises Supervisor were present at all during this visit to the shop.

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

The visit to attempt to purchase alcohol from this premises was made following a complaint referred to Birmingham Trading Standards.

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

Selling alcohol has serious consequences when it gets into the hands of young people, not least, that it can make them vulnerable and likely to all kinds of unwanted actions and influences.

**Previous history of this shop.**

See above.

**Recommendations.**

The Licence that the Council issues is a privilege not a right. That privilege should ensure that the citizens of Birmingham have confidence in the management of the shop and that they do not engage in illegal activity.

The current licence is quite extensive and carries a lot of conditions already which have been breached during the sale, so the Licence holder should already be aware of all his obligations and more importantly abide by them.

By breaching the terms of the License, the business and those responsible, appear to 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 matter, would recommend that the best course of action is for the licence to be revoked to prevent further harm to the neighbourhood.

Enquiries are ongoing in relation to any criminal offences in relation to this matter.



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

**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

17/11/21.....

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.

**LICENSING ACT 2003****PREMISES LICENCE**

Premises Licence Number:

3232 / 7

**Part 1 - Premises details:**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b> One Stop Food & Wine 442-444 Birchfield Road Perry Barr	
<b>Post town:</b> Birmingham	<b>Post Code:</b> B20 3JG
<b>Telephone Number:</b>	

<b>Where the licence is time limited the dates</b> N/A
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<b>Licensable activities authorised by the licence</b> M2      Sale of alcohol by retail (off the premises)
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<b>The times the licence authorises the carrying out of licensable activities</b> Monday-Sunday      00:00      -      23:59      M2
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<b>The opening hours of the premises</b> Monday-Sunday      00:00      -      23:59
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<b>Where the licence authorises supplies of alcohol whether these are on and/or off supplies</b> Off Supplies
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**Part 2**

<b>Name, (registered) address, telephone number and email (where relevant) of holder of premises licence</b> Mr Ashiq Hussain	
<b>Post town:</b>	<b>Post Code:</b>
<b>Telephone Number:</b> Not Specified	
<b>Email</b> N/A	

<b>Registered number of holder for example company number or charity number (where applicable)</b>
--

<b>Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol</b> Mr Ashiq Hussain	
<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> 103381	<b>Issuing Authority</b> SOLIHULL

*Dated 16/02/2021*

Bhapinder Nandhra  
Senior Licensing Officer  
For Director of Regulation and Enforcement

## 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.

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

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

Conditions as stated below under the appropriate licensing objective.

No adult entertainment services or activities permitted on the premises at any time.

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

The licence holder shall install and maintain internal and external CCTV, recordings of which are to be retained for thirty-one days.

There will be external frontage roller shutters and the premises will be fully alarmed.

The licence holder shall ensure that any staff involved in the sale of alcohol are fully aware of their responsibilities under the Licensing Act 2003.

Anyone previously named as Premises Licence Holder or DPS or named in any paperwork relating to previous issues at the premises will have no involvement in the day to day running of the premises.

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

The licence holder shall ensure the premises will have fully maintained fire fighting equipment on site with a maintenance contract along with emergency lighting and smoke detectors.

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

Internal and particularly external CCTV will act as a deterrent in the terms of any anti - social activities regarding the outlet's frontage and the immediate vicinity of the premises.

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

The licence holder shall ensure the layout of the shop will give consideration to the prevention of children accessing 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 incorporate 'The Challenge 21' system.

The licence holder shall ensure a sales refusal book will be fully maintained at the premises at all times.

## **Annex 3 – Conditions attached after hearing by licensing authority**

### **3a) General committee conditions**

The following conditions have been imposed by Licensing Sub Committee B on Tuesday 23rd January 2018, following a review of the premises:

Following the period of suspension, the training arrangements are to be reviewed at monthly intervals and refresher training arranged as and when required

A comprehensive Training Programme must be implemented, and completed by all staff during the three-month period of suspension

### **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

All those employees of the premises who handle the sale of alcohol products to customers at the till must be Personal Licence Holders

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

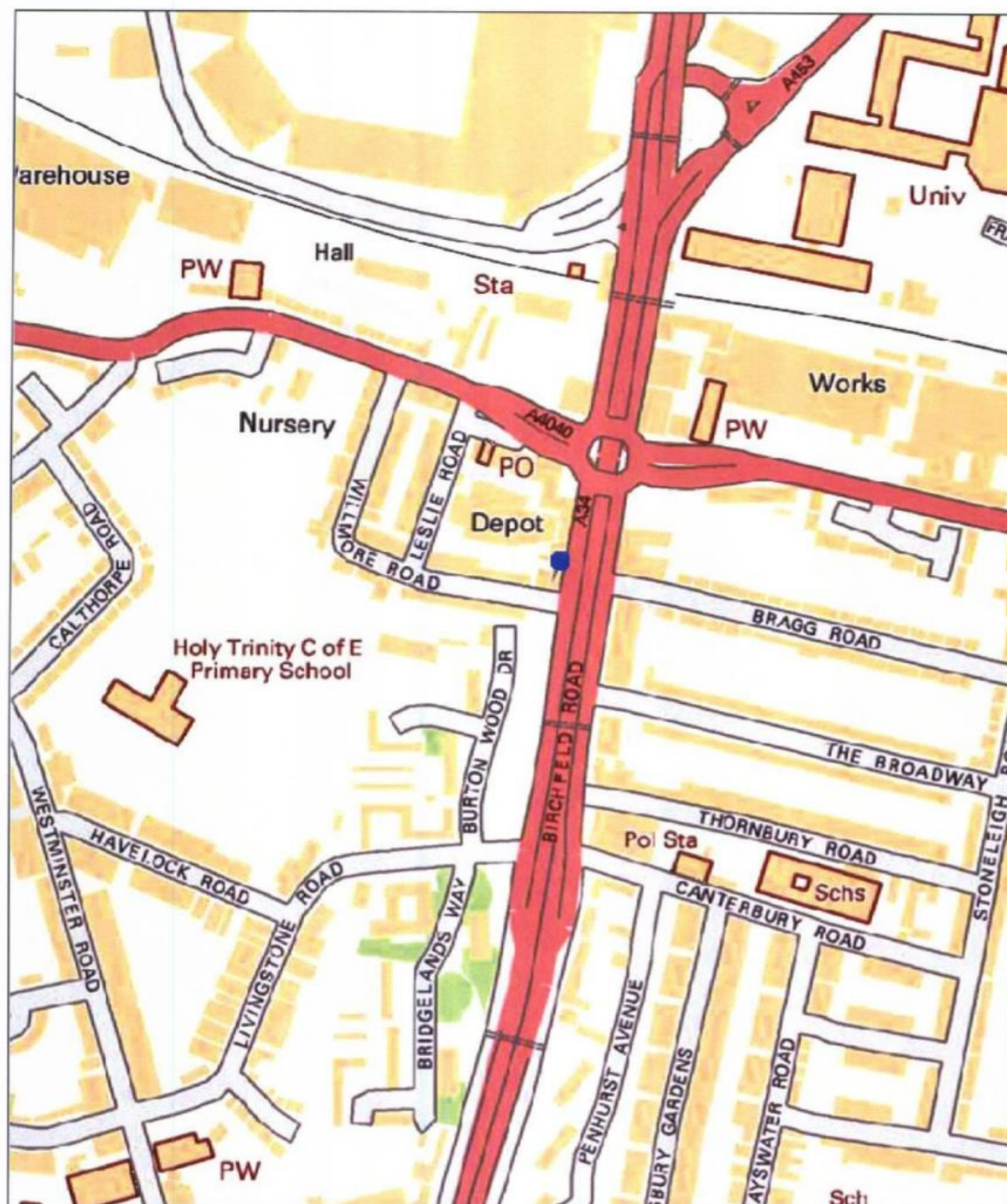
A Challenge 25 procedure must be adopted and implemented

The arrangements regarding the Refusals Log must be comprehensively reviewed during the three-month suspension period; after the three-month suspension period the arrangements must be checked at regular intervals to ensure that the refusals system is working properly



## **Annex 4 – Plans**

The plan of the premises with reference number **118364-3232/7** 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.



**Birmingham City Council** Map Created By:

Notes

Date of Map Creation: 02/01/2018

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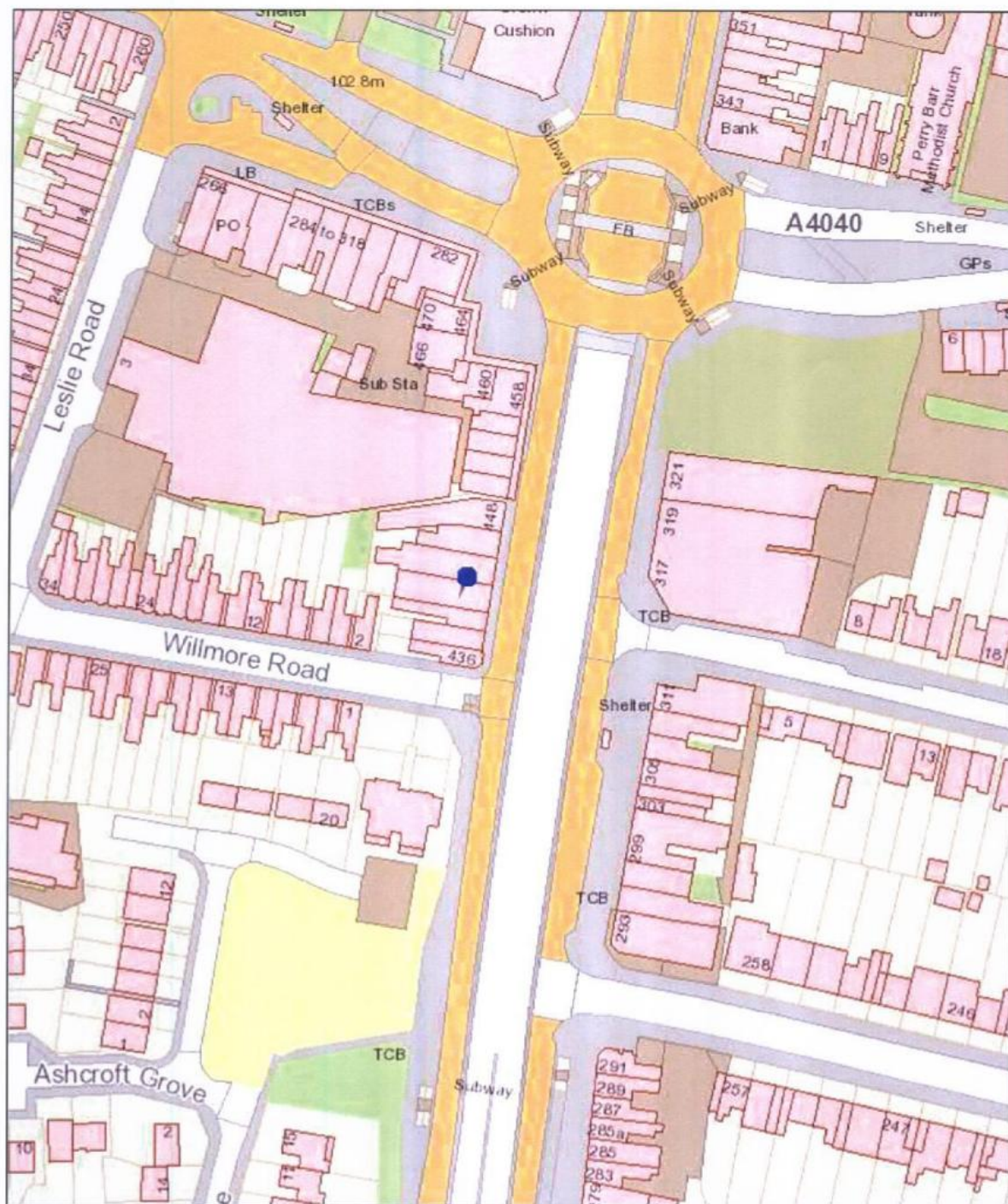
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Scale:  
1:4,000





**Birmingham City Council** Map Created By:

Date of Map Creation: 02/01/2018

**Notes**



Scale:  
1:1,250

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